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ABSTRACT

The study brings together in one work a brief history of American Indian policy in the United States for the use of students, teachers, government employees, and the general reader. More detail has been supplied for the period since 1930 to enable the reader to see the processes involved in the adoption, administration, and eventual changes in Indian policy. The center of attention has been the development and changes of policy. Historical information concerning the Bureau of Indian Affairs (BIA), and general history has been supplied only as necessary to understand the policy changes. The 10 chapters cover: the nature of Indian policy; the Indian and the European; treaties and Indian trade; tribal removal and concentration westward; reservations for Indian tribes; allotments to individual Indians; tribal reorganization; Indian relocation and tribal termination; Indian policy and American life in the 1960's; self determination through Indian leadership, 1968 to 1972; and Indian policy goals for the early 1970's. The bibliography includes general reference works, unpublished materials, government documents, BIA publications, books, newspapers, and periodical literature. The appendix gives dates significant in the development of Indian policy and administrators of U.S. Federal Indian policy from 1789 to the present. (KM)

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A HISTORY OF INDIAN POLICY

S. LYMAN TYLER

UNITED STATES DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs
Washington, D.C. 1973

RC007929

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FOREWORD

American Indians have determined many of the characteristics of American life as it is lived today. Their confederations, their culture, their resistance to white expansion, and the non-Indian position in relation to them have shaped the government, the history, the geography, and the outlook of the United States as a Nation and as a people.

While much is contained in libraries about Indian culture and customs, there has been no authoritative account of Federal Indian policy from the Colonial period to the present. To remedy this gap in source materials available to students in a cross-section of fields, in 1968, urged by the then Deputy Commissioner of Indian Affairs Theodore W. Taylor, the Bureau of Indian Affairs negotiated a contract with Dr. S. Lyman Tyler, Professor of History of the University of Utah, who had done previous research in the Indian policy field, to write "A History of Indian Policy."

Indians today are a young group of Americans. Indian Youth is the largest and fastest growing segment of our Indian population. It is our greatest asset for the future of Indian people. And these young people have not lived through 60 or 70 years of Federal Indian policy. They must read what happened and when they shape policy—and shape policy they will—we hope they will do so with additional insight.

If looking backward means that Indians are filled with regrets over land and culture lost, it serves no useful purpose. But if a backward look means that mistakes of the past are not repeated, looking backward can help both Indians and the non-Indians.

Today's Indian is eager to involve himself in his own destiny—to help shape the laws that affect him and to help administer them. He is becoming better educated, more aware of the choices and options open to him, and he is qualifying himself to work in fields not undertaken traditionally by Indians. As indicated in President Nixon's historic message to the Congress on the subject of Indian affairs, July 8, 1970, Indians are full partners in planning, developing, and administering programs and services to improve all the facets of Indian life in this Administration.

We hope "A History of Indian Policy" will help Indians and non-Indians alike understand what happened when two cultures collided on the land that has become the United States.

Rogers CB Morton

Rogers C. B. Morton
Secretary of the Interior

PREFACE

The purpose of this study has been to bring together in one work a brief history of the Indian policy of the United States for the use of students, teachers, government employees, and the general reader.

More detail has been supplied for the period since 1930 to enable the reader to see the processes involved in the adoption, administration, and eventual changes of Indian policy.

The center of attention has been the development and changes of policy. Historical information concerning the Bureau of Indian Affairs, Indian history, and general history has been supplied only as necessary to understand the changes in policy in their historical setting.

Appreciation always needs to be expressed to those who have gone before and prepared the way. I give them the credit for useful information, and take personal blame for the errors that manage to find their way into any work.

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† From the completion of the administration of President Lyndon B. Johnson to June 30, 1972 in the administration of President Richard M. Nixon.

* The period covered by this study ends June 30, 1972.

CHAPTER ONE

INTRODUCTION

THE NATURE OF INDIAN POLICY

The roots of this narrative history of the policies of the United States toward the American Indian are found in the first contacts between Europeans and native Americans. The formal and official actions taken by representatives of European nations in their relations with Indian groups were governed by custom and experience. The United States used the actions of the European colonies in America as precedents in the establishment of its own Indian policies.

This examination of the history of United States Indian policy is not intended to be a general history of the American Indian or a history of all interaction between the United States and the Indians. This is a study of Indian policy in and of itself. This policy is a continually changing thing. Some threads may be identified in 1789 and traced through in recognizable form to the present. Other threads will begin and play out in a relatively brief span of time.

The role of the historian in this study is to record events that relate to the development of Indian policy in such a way that the reader will be able to understand them, as nearly as possible, as they happened. The account of the events that make up the record is in itself intended to be impartial. The reader, as he examines the record, will make whatever judgment the events seem to require. The judgments will tend to be different as the readers are different.

First let us explain what we mean by Indian policy then proceed to an examination of its history.

A Definition of Indian Policy

For the purposes of this study, Indian policy shall be considered a course of action pursued by any government and adopted as expedient by that government in its relations with any of the Indians of the Americas. By expedient, we mean action that is considered by government to be advantageous or advisable under the particular circumstances or during a specific time span.

Since we will observe the Indian policy of the Spanish, French, Dutch, and English colonial governments, as well as that of the United States, we will consider as representative of their policy those actions that appear to have been considered politic by them at the time. By politic, we mean sensible, well-advised, or in keeping with an accepted course of action in a particular government's Indian relations at a given time.

It is suggested that three levels of policy should be considered. The first level includes those basic ideas or long-range policies that influence the action of a government for extended periods of time. The second level includes the guiding principles adopted and pursued by a government during a particular or limited period of time. These may or may not be specifically related to the long-range policies. The third level consists of the rules and procedural practices laid down by government administrators to put accepted policy into effect.

This study will consider chiefly the first and second level policy as outlined above, particularly during the period prior to 1900. Management, or third level policy, will be referred to since 1900 as necessary to make valid judgments in the evaluation of policy, or to examine its effect on the object of Indian policy, the Indian people. In order to supply enough information to assist with value judgments, greater detail is supplied for the period since 1930.

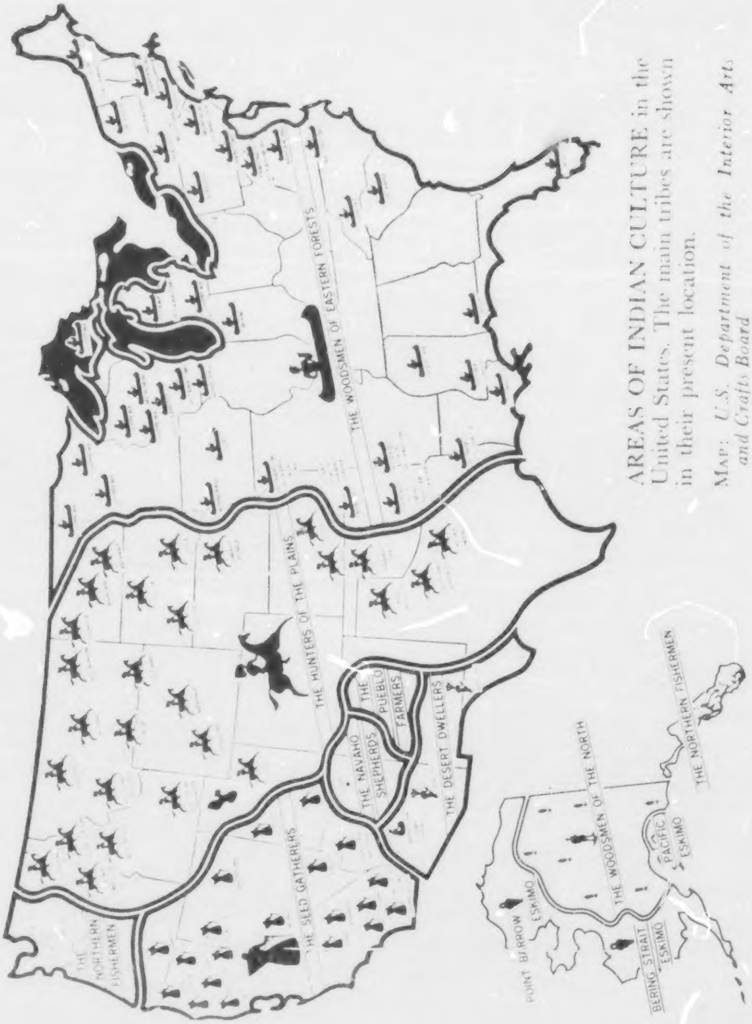
In the United States, Indian policy has historically been influenced by each of the three branches of Government: Legislative, executive, and judicial. While policy changes are technically and officially effected through laws originating in the Congress, the executive branch may and does strongly influence policy through the President's constitutional charge to "give to the Congress information on the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; . . ."

For the first few decades of our national existence the Presidents expressed themselves often, and rather fully, in regard to Indian affairs. Our Government's relations with the Indians were then a matter of concern to all the people of the United States. More recently executive opinion has tended to be expressed through the Secretary of the Interior or the Commissioner of Indian Affairs. On March 6, 1968, however, President Lyndon B. Johnson outlined to the Congress of the United States in a Special Message on Indian Affairs, a detailed program for the "Forgotten American." President Richard M. Nixon issued a Special Message to the Congress July 8, 1970 that expresses his views concerning the directions Indian programs should take during his administration. His main thrust was a call for actions that would place Indian leaders in the role of decision makers.

The Federal judiciary, and particularly the Supreme Court, has also influenced and helped to make our understanding of policy more precise, by its interpretation of cases with consistent justice to the Indian. The executive branch, fully aware of the position of the Supreme Court in cases relating to the Indian, has tended to avoid recommending to the Congress those measures they know will not meet the challenge of the court. The philosophy of the court may also influence congressional consideration of measures supported by local interests that would be prejudicial to the Indians.

Although the executive branch and the judiciary do influence legislation, and thereby Indian policy, through the system of checks and balances mentioned above, it is finally the responsibility of the Congress to enact the measures that become the laws which the President, through the Department of the Interior, the Bureau of Indian Affairs, and other Federal agencies, is, by the Constitution and by his personal oath, bound to see "faithfully executed."

As current guiding principles and management policy change from time to time it is difficult, and perhaps impossible, to have changes in policy take effect simultaneously at all levels of government. Some Government employees and Indians will continue to find ways to follow the practices they think best regardless of presently accepted policy. Also, the enactment of laws to effect a new policy does not automatically remove from the books all earlier laws that may prove to be in conflict with present policy. The dead hand of time rests heavily upon the employees and agencies of Government as on other human institutions.


THE NORTHERN FISHERMEN
THE SEED GATHERERS
THE HUNTERS OF THE PLAINS
THE WOODSMEN OF EASTERN FORESTS
THE NAVAHO SHEPHERDS
THE PUEBLO FARMERS
THE DESERT DWELLERS
POINT BARROW ESKIMO
THE WOODSMEN OF THE NORTH
BERING STRAIT ESKIMO
PACIFIC ESKIMO
THE NORTHERN FISHERMEN

AREAS OF INDIAN CULTURE in the United States. The main tribes are shown in their present location.

MAP: *U.S. Department of the Interior Arts and Crafts Board*

It is also necessary to consider Indian policy against the background of general United States history during a particular period of time. In retrospect, we can see why Indians tended to stay on their reservations during the great depression of the 1930's when jobs were scarce throughout the Nation. After World War II, when jobs were plentiful, it made sense for Indians to choose to relocate from the reservations to the cities. With the many problems that exist in cities in the present period, however, Indians may again decide it is better to maintain their reservation residences unless by training they have secured the skills necessary to insure success in the highly competitive and complex urban society.

Also, as services previously available only to Indians are extended to citizens generally, the agencies that give such services to the balance of the population are being asked to also include Indians. During the 1950's the threat of termination caused Indians generally to fear these transfers from the Bureau of Indian Affairs to other agencies. Such arrangements were then identified as "piecemeal" termination. More recently, with the immediacy of the termination threat apparently removed, the fear has diminished until today a multitude of Federal agencies is involved with Indian programs.

An Overview: Similarity Amid Change

Actually discussion of assimilation, removal, allotment, the establishment of reservations, and the extension of local laws over tribes within the established States has occurred intermittently throughout the history of relations between the United States and the Indian tribes. One proposition might be stressed more strongly in a given period than another, or might be thought of as policy for a time, but the existence of the other facets of Indian relations continued and were brought back into use from time to time.

As examples: (1) A policy akin to removal was effected by royal proclamation after the French and Indian War in 1763. This idea prevailed to be re-emphasized by Jefferson in 1803, adopted by Monroe two decades later, and given teeth by Andrew Jackson during his administration. It continued to be used intermittently to separate Indian tribes from established and expanding settlements. In the 1880's the people of the State of Colorado used the Meeker Massacre (1879) as a pretext for having the Ute Indians removed almost entirely from the western third of that State into Utah.

(2) Although the attempt to establish reserves for the Indians of California in 1853 is often referred to as the beginning of the reservation era, actually we had reservations from the time lands acquired by non-Indians first surrounded lands reserved for Indian tribes. Examples are the lands of the Pennobscot and Passamaquody in Maine and of the Iroquois Confederation of New York. The need for reserved areas for the Indians of Alaska is a contemporary problem, and the reservation system is, of course, still with us.

(3) J. P. Kinney, in his study of Indian land tenure in America, finds references to allotment throughout the period from 1633 to what we identify as the beginning of the allotment period in 1887. The idea of citizenship for Indians had long been closely connected with the acceptance of a tract of land by an individual Indian or Indian family. Actually, by the time the Indian Citizenship Act was passed in 1924, two-thirds of the Indians of the United States were already citizens. Allotment and termination had common goals.

(4) During the 1820's it became apparent that some solution must be found to the difficulties between the Five Civilized Tribes and the southern States in which they resided. In 1829, Georgia, Alabama, and Mississippi stood ready to extend State sovereignty over Indian lands. In his message to the Congress December 8, 1829 President Jackson stressed the impossibility of maintaining two sovereignties within a State and suggested removal as a means of allowing the Indians to continue to govern themselves. Just a hundred years later in the 1929 report of the Board of Indian Commissioners we read that the "annals of federal Indian administration disclose a curious timidity on the part of Congress and the Indian Bureau whenever the question of law enforcement on reservations has been raised." Here it was again suggested that Indians should be placed under the same laws as their non-Indian neighbors. Uncertainty in regard to jurisdiction still exists.

(5) The English colonies, and later the United States, were interested in, or gave lip-service to, the idea of Indian assimilation. As President Andrew Jackson pointed out in 1829, however, we often actually followed a working policy that brought about just the op-

posite results. When our Indian policy is spoken of as a complete failure from 1789 until the time a particular critic gives expression to his criticism, we must remember that it is being judged after the fact and in the light of contemporary thinking on Indian policy. Actually our Indian policy has frequently achieved what the policy-makers wanted most from it at a given time. It may be said that some of our short-range policies have been successful, but that our long-range goal of assimilation which prevailed as a policy until the 1960's is far from being realized.

By the early 1920's three of the most heralded policy changes, although they had accomplished certain immediate goals, had been discontinued as failures in achieving integration of Indians into non-Indian society.

The Indian Intercourse Act of 1834, which looked toward the *concentration* of Indians in "Indian Country" west of the Mississippi and the barring of unauthorized non-Indians from encroachment on their lands, gave way to the *Reservation System* in the 1850's. Pressure to break up the tribal estates and individualize Indian landholding developed in the 1880's and was formalized by the *Allotment Act* of 1887. The excesses of the force-patent period from 1917 to 1920 finally convinced the administrators that the allotment policy, as it had been applied, had not accomplished the goals foreseen in the 1880's. The result was a demand for reform in the administration of Indian affairs.

The refusal of the United States to adequately protect Indians in their rights against non-Indians played an important part in the failure of the *concentration policy*, the *reservation policy*, and the *allotment policy*. During each of the three periods mentioned, the Congress, time after time, responded to local non-Indian voters to the detriment of the Indians. Policies that failed to achieve the goals of civilization and assimilation set for the Indians often succeeded in securing the land or other resources as planned for the non-Indians.

Congress and Indian Policy

Congressional interest in Indian bills, as indicated by voting patterns, tends to divide broadly between east and west, with exceptions appearing in eastern States where there are significant Indian populations, and further exceptions in particular States in the West when a bill appears that has significant local political interest. The non-Indian vote has tended to be of more local political significance than the Indian vote.

Party politics has tended to have little significance in the vote on Indian bills. The chairmen and senior members of Indian affairs and appropriations committees have usually wielded a strong influence regardless of party, with the vote on controversial bills tending to line up along regional rather than party lines. Indian bills often come up on the consent calendar where a single dissenting vote will kill the bill.

Members of the Indian Affairs Committees (before reorganization in 1946) and of the Indian subcommittees of the Committees on Interior and Insular Affairs have tended to be predominantly from the West. With the action on a bill being largely determined by committees, and with key committee members having strong influence on other members, it is possible to see to what extent decisions on Indian matters can depend on a very few members of the Congress.

Since committee members are usually very busy men, there is a great deal of dependence on staff for information, correspondence, drafting of reports and bills, and the general operation of committee affairs. As members of committees some times give approval to what is largely the work of the staff, the attitudes of senior staff members may be almost as significant as that of committee members. The role of certain staff members during the 1940's, said to be opposed to the New Deal, to Collier, and to the Bureau,[1] would be an interesting study in itself in the formation of Indian policy.

Related to the idea of politics and minority groups, a little gem appears in an exchange between Helen Peterson, then executive secretary of the National Congress of American Indians, and Senator Arthur V. Watkins, at the close of the hearings on the transfer of the Indian health program to the Public Health Service:

> *Miss Peterson.* I would like to suggest this, Mr. Chairman, if I might. Could there be any consideration of a proposal perhaps to pass this bill for, say, one State, on an experimental basis? I do know the San Carlos Apache Tribe favors this transfer. Certainly some of the medical men who have favored

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[1] John Leiper Freeman, Jr., "The New Deal for Indians: A Study in Bureau-Committee Relations in American Government," doctoral dissertation, Princeton University, 1952, p. 505

it come from the State of Arizona. Would there be any possibility of considering a bill like this on an experimental basis for, say, the State of Arizona, since there seems to be pretty complete agreement in favor of it; and then if it works, if it is helpful, if it really does accomplish the purposes which have been discussed here, perhaps it would be a very great service to demonstrate a pattern and show what could be done.

Only one further observation: The Indian people have seemed most afraid of their hospitals being closed, or the inability of the Public Health Service to get the money, which everyone says cannot be gotten from the Indian Bureau. Perhaps if the bill could guarantee that the appropriations could be made, and in sufficient additional amount, to undertake this job, that might relieve some of the fear. And certainly if it could be guaranteed to the Indian people that no hospitals would be closed, but that they would be operated with full staffing, that might relieve the fear.

Senator Watkins. That, of course, would be impossible, because they are having a hard time to get doctors now, you see, borrowing from Public Health. And someone said they are borrowing from the Army and Navy. We cannot guarantee that; we cannot even guarantee any of the hospitals, even military hospitals, are going to be properly staffed. They are having difficulty in getting nurses. That is one of the big problems of the day in serving our armed service, to get enough nurses.

Miss Peterson. It is hard, Senator, for us to understand. It really is.

If we have not been able to get enough money so that the Indian Bureau could do a decent job, what assurance is there, really, that somebody else could be able to do the same thing?

Senator Watkins. I will tell you why. You only have a few Indians in the United States compared to the 161 million people in the United States that are white. But the general public is interested in the Public Health Service. The white people, all the people, are interested in the Public Health Service. It has a big backing of American people. It affects the States and so many citizens that it is always in a much preferred position to the Indian Service.

I find when I go before a committee to discuss Indian Affairs I get sympathetic consideration from a few members. But you take the members of the Appropriations Committee and of the Congress who are not from Indian States, they certainly do not look with sympathy upon our requests for more and more appropriations. They will get up and say, "Why not wipe it all out? Why not do it all now?"

When we had the first bill for determination of those Utah Indian lands, one of the very able men on the Appropriations Committee said, "Why don't you do it for all Indians right now? Put it in one bill. Why isn't this done for all right now."

I had to go on and explain it.

You wonder why they do not understand, but they do not. There are not enough Indians that vote, and these people that maybe only have two or three hundred, which is true of a lot of States in the East, are not sympathetic. It becomes a more or less sectional problem. They are not interested in going ahead. But they are interested in the Public Health Service. That is why we think we will have a much better chance to get our money, to expand the service and do the things we want to do.

I think our objectives are all the same. We want to discharge our obligations to the Indians.[2]

Treatymaking: The Long View

One of the basic factors that influenced the relations of these colonizing nation states with the American Indian, almost from the first contact, was the belief of the European that his ways were superior to those of the Indian. Given this belief, it has been difficult for the European or American to see why it should take the Indians so long to change their ways.

The fact that thousands of Indian communities still exist in the Americas as separate entities, with distinct characteristics, by choice, over 450 years after the first Spanish contacts and over 350 years after the arrival of the English and other Europeans, suggests that Indian societies have great holding power, that they are likely to continue to endure, and that they may choose their way in preference to the non-Indian way in the years to come.

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[2] *Transfer of Indian Hospitals and Health Facilities to Public Health Service: Hearings Before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs on H. R. 303* (Washington: 83rd. Cong., 2d sess., U. S. Senate, Committee on Interior and Insular Affairs, Subcommittee on Indian Affairs, May 28 and 29, 1954), pp. 173–174.

Spain, France, and England conquered the Americas by colonization, "a form of conquest in which a nation takes over a distant territory, thrusts in its own people, and controls or eliminates the native inhabitants." [3]

The only extenuating circumstance one can suggest in explanation of this European policy toward the Indians of the Americas, as stated by Samuel Eliot Morison, "is that it continued an old-world process of one race or people pushing a weaker one out of an area that it wanted. Almost every European today is a descendant of Asiatic intruders into Europe; almost every North African the descendant of Arab intruders . . . In the United States, as elsewhere in the 19th century, this process of conquest and expansion took the form of a relatively highly developed civilization pushing out a backward people who could not or would not be absorbed, and who were too few in number and weak in technique long to resist. But some of the Indians put up a very good fight." [4]

President Thomas Jefferson made the suggestion in regard to relations between the United States Government and the Indians that we should "develop in them the wisdom of exchanging what they can spare and we want, for what we can spare and they want." Now Jefferson believed that they could spare and we wanted part of their land. He also believed that we could spare and they wanted the arts of civilization. Whether it was a fair exchange or not, non-Indian citizens of the United States have not ceased to covet the resources that have remained in the control of the native Americans, be they Indian, Aleut, or Eskimo, and it has been part of the Indian program of the United States to work out ways that transfers of these resources could occur: peacefully if possible, and legally if it could be managed.

In the face of the acquisitive instincts and the desire to secure compliance with accepted social and religious practices that have governed Europeans and United States citizens, only the accepted policy that recognized the right of the Crown and of the national government to rule in matters that relate to Indian tribes has allowed these tribes to continue their separate existence as domestic, dependent nations retaining the right to govern themselves.

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[3] Samuel Eliot Morison, *The Oxford History of the American People* (New York: Oxford University Press, 1965), p. 34.

[4] *Ibid.*, p. 445.

The European nations guaranteed these rights by treaty during the colonial period. From 1789 to 1871 the United States continued the practice of treatymaking. Many of the treaties made during that period are still in force. When treatymaking ended in 1871, the Congress continued its relations with Indians by legislative oversight on the basis of mutual consent.

Through Executive Orders the President and the executive branch of Government have continued their relations with Indians without recourse to the treatymaking process. The Supreme Court has upheld the role of the national Government in relation to Indian tribes, and has continued to give assurance to these tribes in relation to self-government.

The Supreme Court has also upheld the right of the national Government to protect the Indians until they reach a status where they are able to maintain themselves in the midst of their more competitive neighbors.

It seems apparent that the special relationship between the Indian tribes and the national Government will continue until the Congress and the Indians feel that the terms of the treaties have been fully honored, and until it is undesirable and disadvantageous to have the special status continue longer.

The impact of the treaty relationship did not end in 1871, but has continued until the present and will continue into the future.

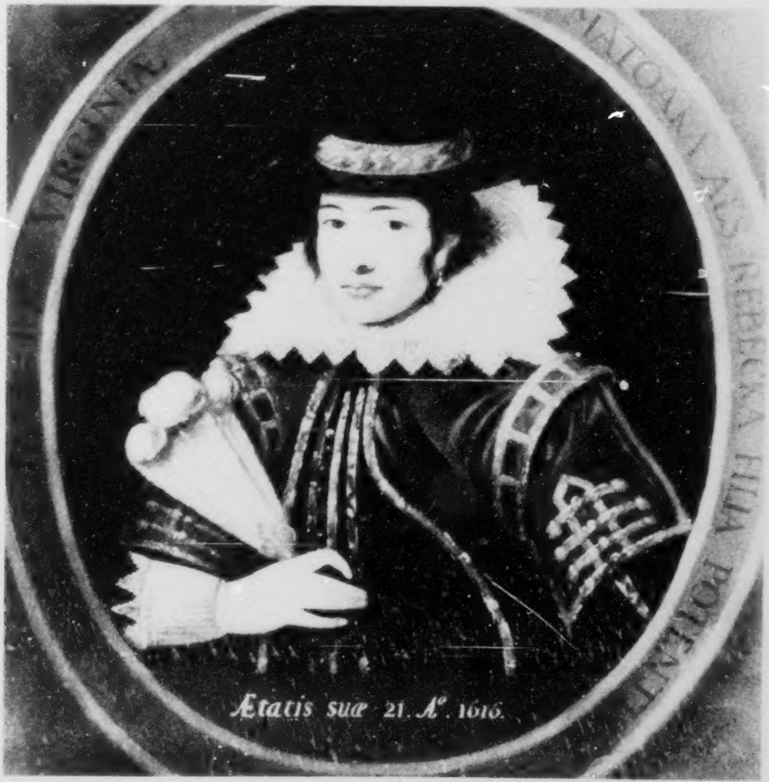
THE INDIAN AND THE EUROPEAN

Wherever the European touched during the various discoveries and the subsequent exploration of the Americas, he found inhabitants. From the southern portion of South America to the northern regions of North America the land was occupied by peoples misnamed Indians, because in the 1492 discovery Columbus erroneously believed he had reached Asia.

To the European, the Indian seemed to lack unity, for as the groups of invaders proceeded inland they normally encountered distinct tribes, usually speaking different languages or dialects. To the Indian, these outlanders were generally considered inferior as men, but the steel knives and hatchets, iron kettles, and guns they brought as trade goods allowed the Indians to pursue their native ways more advantageously. With these goods a particular tribe could gain the upper hand over an enemy that had not yet secured them.

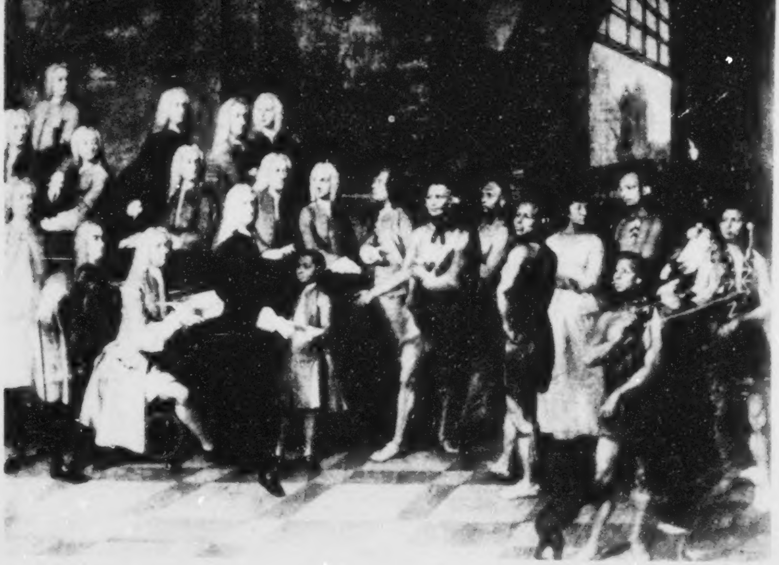
Regardless of their respect or lack of respect for one another as human beings, both the Indian and the European gained certain advantages through temporary or long-term alliances. An outgrowth of these contacts was the adoption by each of items from the material culture of the other, and, as a result, each became dependent on the other.

The Indian population of the Americas, because of the absence of materials necessary to arrive at a reliable figure, has been esti-


MATOAKA ALS REBECKA FILIA POTENT... VIRGINIÆ
Ætatis suæ 21. Aº. 1616.

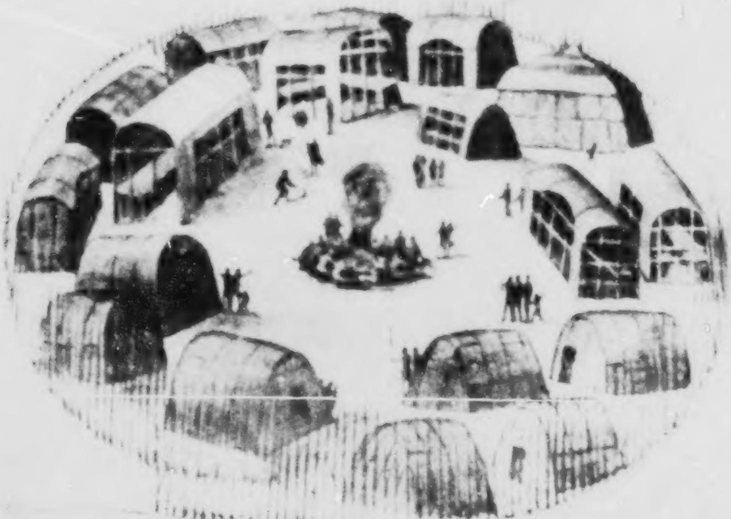
Matoaka, better known as Pocahontas, daughter of Powhatan. She became the wife of John Rolfe of Virginia and died at Gravesend, England, in 1617 at the age of about 22. From a portrait made in London by an unknown artist, 1616.

(Photo: Smithsonian Institution.)



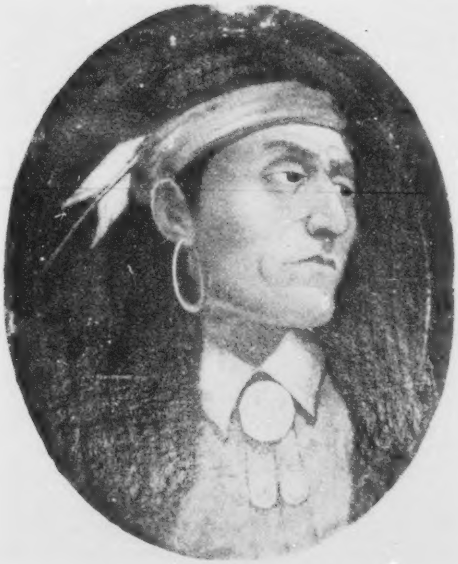
James Oglethorpe presenting Tomonchichi, head chief of a Creek town, his wife and nephew, to the Lord Trustees of the Colony of Georgia in the 18th century.

(Photo: Smithsonian Institution.)



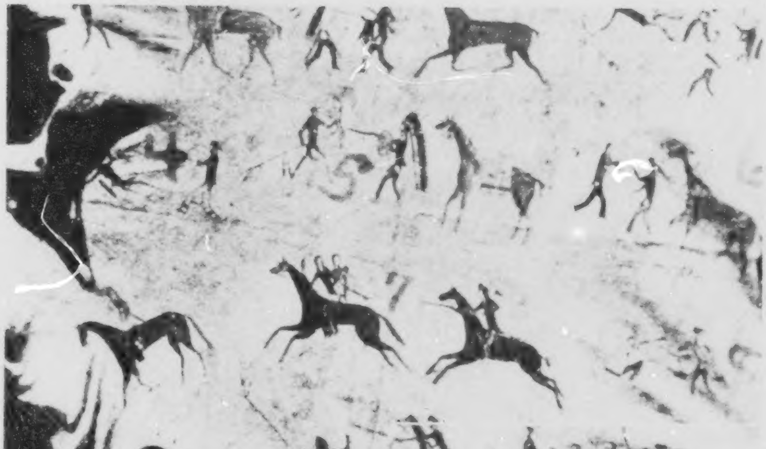
The village of Pomeioc, North Carolina, with thatched houses typical of southeast Indian communities, as painted by John White, governor of the ill-fated Roanoke colony.

(Photo: Smithsonian Institution.)



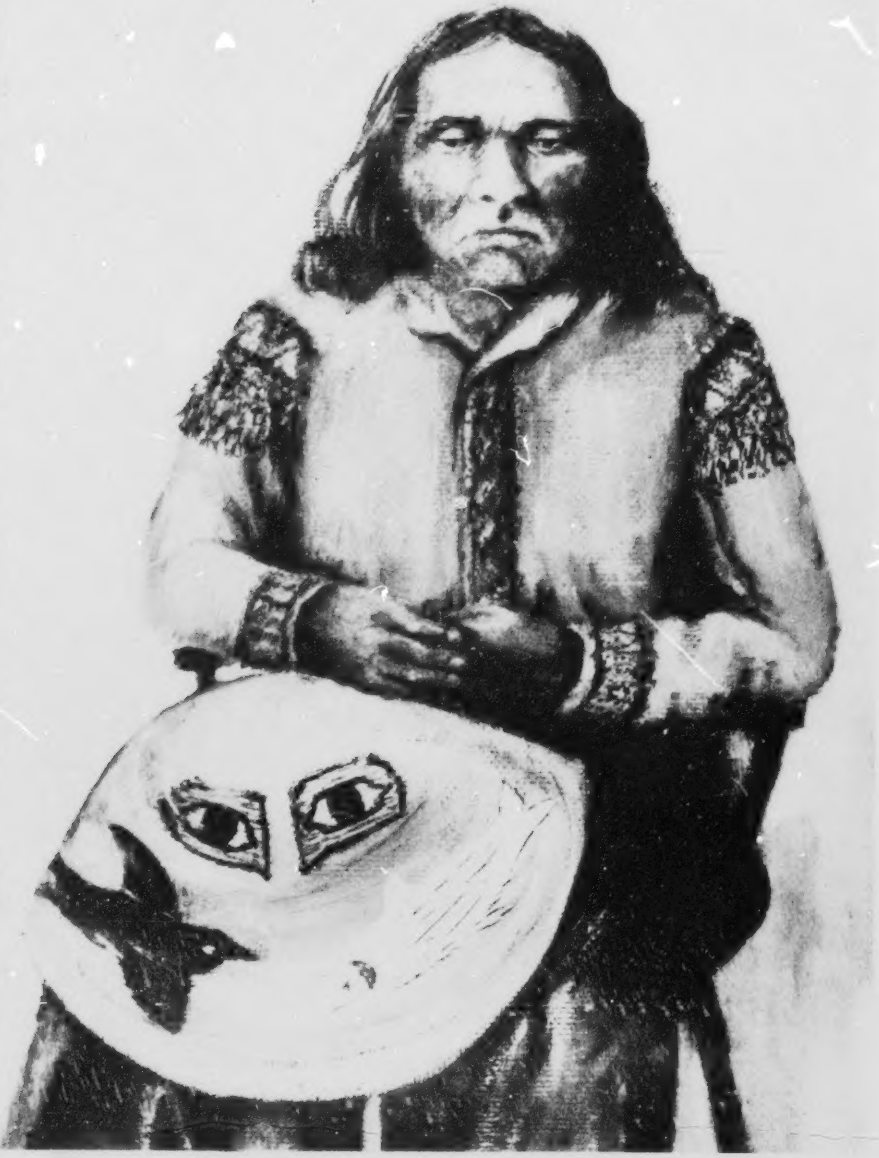
This portrait is believed to be of Pontiac—important leader of the French and Indian War. It is attributed to John Mix Stanley.

(Photo: Detroit Historical Museum.)



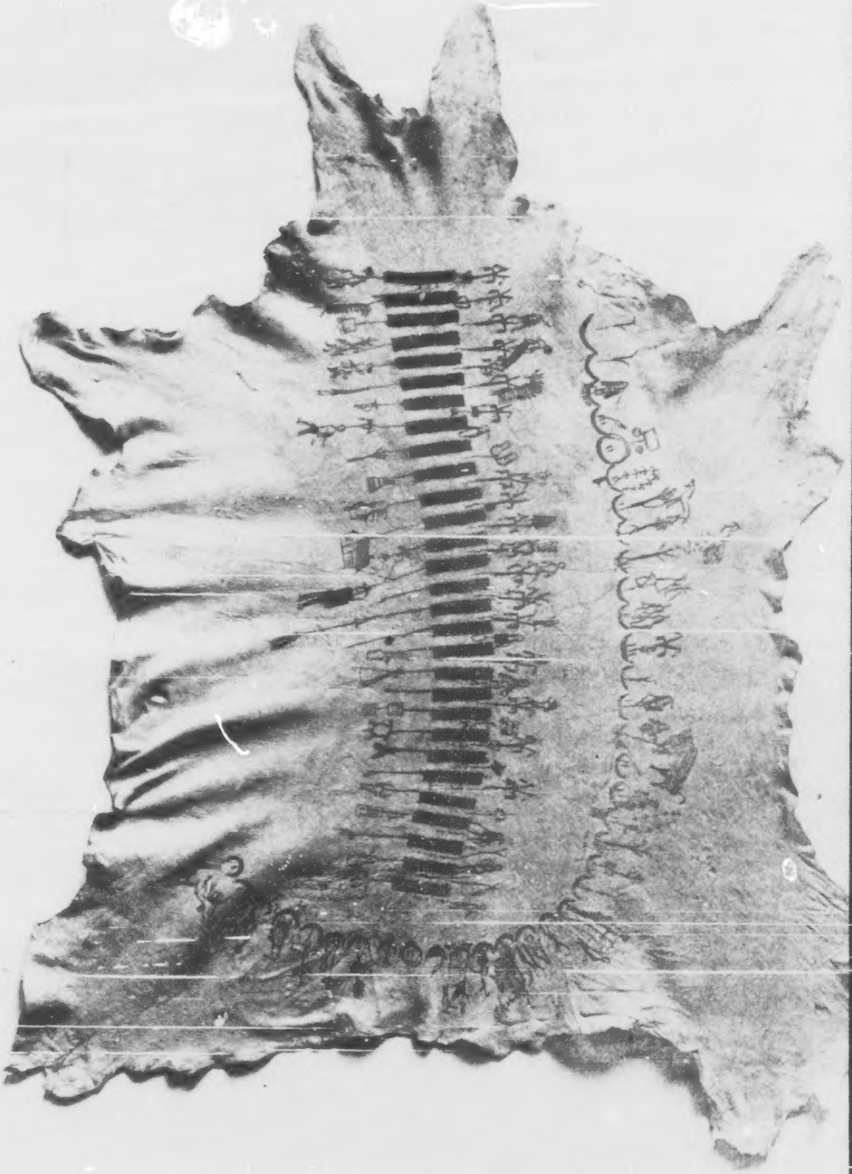
Animal Skin with pictorial history of Shoshoni Chief Washakie's combats.

(Photo: U.S. Signal Corps, National Archives and Records Service.)



Seattle, Duwamish Chief, Pacific Northwest, holds a hat of fine basketry. From an original painting by Eleanor Peardis of Seattle, Washington.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)



*Calendar of 37 months, 1889-92, kept on a skin by **Anko**, a Kiowa man. Photograph, ca. 1895.*

(Photo: Smithsonian Institution.)

mated to have been anywhere from 8,500,000 to 90,000,000 people.

For comparative purposes, let us guess that there were 1,000,000 Indians in what is now the United States; about three times more than the 300,000 in Canada (including Alaska and the Arctic region); four times that many or 4,000,000 in Mexico; and eight times that many or 8,000,000 in Central America, South America and the West Indies.[5]

Within these areas the population was not evenly distributed. There were certain favorable regions such as the Mississippi Valley, Mexico, Central America, Colombia and Peru that were relatively thickly inhabited. The areas where population was concentrated most heavily tended to be those where the most highly developed cultural and social systems prevailed.

Government for the Indians of the Americas tended to be lodged in the wise men, often the older men of the community, who administered customary law wherein "group welfare was the supreme consideration." In North America the loose confederations of the Aztecs and the Iroquois are examples of relatively highly developed political organizations. In South America a highly centralized social and political organization was ruled by the family of the Inca in Peru.

Although there was private property in the sense of personal equipment such as tools, clothing, and weapons, the communal sharing of land was a universal and seemingly natural arrangement. The Indian found it difficult to adapt to the European practice of buying and selling land, and of holding it as personal property. American nations are still returning Indian land to communal ownership in order to have Indian communities retain title.

International Law and Indian Policy

In their early relationships with the Indian tribes the conduct of the European states was governed by the laws of nations. The Spanish, French, Dutch, and English agreed that the American Indians were people able to reason and capable of conversion to Christianity. Their rights in the land they occupied were to be given due consideration. Their land was to be taken from them only by mutual agreement, usually some form of purchase or exchange, or by "lawful wars" in the name of the sovereign that the particular Europeans represented.

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[5] For population estimates see Morison: op. cit., p. 15; J. Nixon Hadley, "The Demography of the American Indians," *The Annals*, American Academy of Political and Social Science, May 1957, pp. 23–30; and H. F. Dobyns and H. P. Thompson, et al., "Estimating Aboriginal American Population," *Current Anthropology*, 1966, pp. 395–449; with accompanying notes.

It came to be generally accepted by the European sovereigns that, by "Right of Discovery," the government, by whose subjects or by whose authority new lands were discovered, gained title therein against all European or other civilized governments. This title was consummated by colonization or other form of possession.

The Aristotelian Theory of Natural Slavery

We have long been aware of the role played by Aristotle's geographical theories on the discovery of America, but only recently has serious consideration been given to the influence that the attempt to apply his doctrine of "natural slavery" to the native Americans had upon programs for the Indians in the new world. To cite Lewis Hanke:

> Generally speaking there was no true racial prejudice before the fifteenth century, for mankind was divided not so much into antagonistic races as into "Christians and infidels." The expansion of Europe to Africa, America, and the East changed all this and thus the story of Spanish experience has a value for those who would understand race issues on the world scene.
>
> Aristotle's authority remained so strong among Christian thinkers that some eminent Spaniards did not hesitate to apply his doctrine of natural slavery to the Indians. Others discovered that the experience and dogmas of the past were only partially helpful in attempting to answer the moral questions posed by the discovery of America.
>
> It was the Spaniards who first realized the necessity to work out Christian laws to govern their relations with the Indians they encountered.[6]

It was a temptation to the European in the 16th century as it has been to men in the 20th century, to let the notion of racial inferiority become an excuse to push the Indians from the lands they occupied. But largely as the result of the arguments of Spanish theoreticians such as Bartolome de Las Casas and Francisco de

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[6] Lewis Hanke, *Aristotle and the American Indians*. A Study in Race Prejudice in the Modern World (Chicago: Henry Regnery Company, 1959), p. Ix, 1 and 2.

Vitoria, the idea developed that "certain basic rights inhere in men *as men* not by reason of their race, creed, or color, but by reason of their humanity." [7]

To arguments that Indians were heretics, and irrational, Vitoria replied "that even heretics and sinners were entitled to own property . . . and that the Indians were at least as rational as some of the people of Spain." To the argument that Indian lands had been given to the Kings of Spain and Portugal, Vitoria replied that the Pope had "no temporal power over Indian aborigines" (De Indis, II, 6). Therefore, "a division of the new world by the Pope could serve only as an allocation of zones for trading and proselytizing purposes, not as a distribution of land." (see De Indis III, 10) [8]

In regard to the theory of "Title by Discovery," Vitoria reasoned that title to lands not already possessed could be gained by discovery, but that the Indians "were true owners, both from the public and the private standpoint," (De Indis II, 7), for this reason "the discovery of them by the Spaniards had no more effect on their property than the discovery of the Spaniards by the Indians had on Spanish property." [9]

In 1537, by the Bull Sublimis Deus, Pope Paul III gave the doctrine of Vitoria papal support by proclaiming to the Christian sovereigns of Europe:

> We, who, though unworthy, exercise on earth the power of our Lord and who seek with all our might to bring those sheep of His flock who are outside, into the fold committed to our charge, consider, however, that the Indians are truly men and that they are not only capable of understanding the Catholic faith but, according to our information, they desire exceedingly to receive it. Desiring to provide ample remedy for these evils, we define and declare by these our letter, or by any translation thereof signed by any notary public and sealed with the seal of any ecclesiastical dignitary, to which the same credit shall be given as to the originals, that, notwithstanding whatever may have been or may be said to the contrary, the said Indians and all other people who may later be discovered by Christians, are by no means to be deprived of their liberty

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[7] Felix S. Cohen, "Original Indian Title," *Minnesota Law Review*, December 1947, p. 44, for Las Casas arguments see Lewis Hanke, *The Spanish Struggle for Justice in the Conquest of America* (Philadelphia, 1949).

[8] *Ibid.*

[9] *Ibid.*, pp. 44–45.

> or the possession of their property, even though they be outside the faith of Jesus Christ; and that they may and should, freely and legitimately, enjoy their liberty and the possession of their property; nor should they be in any way enslaved; should the contrary happen, it shall be null and of no effect.[10]

As explained by Felix Cohen, "Vitoria's doctrine of respect for Indian possessions became the guiding principle of Spain's Laws of the Indies; . . . Conquistadores, pirates, and even administrative officials sworn to obey the law have not always adhered to this high principle." [11]

The Practical Application of Legal Concepts

William A. Brophy as "Special Attorney for the Pueblo Indians" prior to his appointment as Commissioner of Indian Affairs stated:

> . . . the bases of the Indian guardianship theory in American law can probably first be found in the attitude of the European governments toward the native inhabitants of newly discovered lands . . . While the Spanish policy changed from period to period, it can, in general, be said that as early as 1543 the Indians were declared to be direct vassals of the Crown, and that during all the Spanish regime the least protection given to the Indians was that governmental approval had to be obtained before any transfer of land from Indians to Spanish settlers was valid.[12]

Mr. Brophy points out that the Spanish Crown appointed special "Protectors" and legal "Defenders," and that the Protector "controlled all Indian interests:" and "the Defender represented the Indians in all litigations in court." Gradually a body of laws was built up defining the position of the Indian in relation to his Spanish neighbors. Of the nine books included in the *Recopilacion de leyes de los reynos de las Indias*, published in four volumes in Madrid in 1681, and reprinted in several later editions, one entire book is devoted to the Indians. Much of this body of law was adopted into the Mexican legal system which governed the Indians of the southwest after the revolution until their territory became part of the United States under the Treaty of Guadalupe Hidalgo in 1848, and the Gadsden Purchase in 1853.

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[10] *Ibid.*, p. 45.

[11] *Ibid.*

[12] William A. Brophy, "Spanish and Mexican Influence Upon Indian Administration in the United States," paper prepared for delivery at the First Inter-American Conference on Indian Life, Patzcuaro, Mexico, April 14–24, 1940, p. 1.

Although the French, Dutch, English, and American Colonial governments, through the representatives of the Crown, attempted in various ways to protect the Indians in their relations with the settler, "it is in the Spanish law that we can find the most vigorous attempts to protect their wards." Frederick Hall states "The broad field of Spanish jurisprudence bristled all over with fortifications for the protection of the Indians." [13]

The French policy in Canada was to make the Indians, to the extent this was possible, one with her own settlers. There was considerable intermarriage, and the Indians were not, as a practice, held at arms length or treated as an inferior or distinct people. Since the fur trade was of great importance throughout the French period in Canada, good relations with the Indians was a basic ingredient of policy.[14]

In the area of the established settlements of New Netherlands, the European and the Indian were both tillers of the soil. Elsewhere, with the Dutch as with the French, the fur trade was the primary reason for relationships with the Indians. The Dutch were sometimes guilty of cheating the Indians as were the traders of other nations, but, since the trade was mutually advantageous to both sides, differences were patched up. After the conquest of New Netherland in 1664 the English fell heir to the contacts made by the Dutch.

An examination of the documents conveying land to English settlers suggests that, as a rule, "the English sovereigns wholly ignored the Indian's rights in granting charters for lands in North America: and they gave no expression therein of a solicitude for the civilization or welfare of the natives." It became necessary, however, in actual practice to develop policies that resulted in recognition of the Indian's right of occupancy, and of the obligation of the representatives of the Crown to extinguish this right by purchase or other means "consistent with national honor." [15]

In the English colonies it was left largely to the various colonial governments to develop practices in regard to recognition of Indian land title. Colonial policy in regard to Indian land tenure was quite different from one colony to another. The authorities in one might, as a rule, try hard to see that the claims of the Indians were honored. In another colony the object of the policy pursued often seemed to be to obtain as much land from the Indians as possible.[16]

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[13] *Ibid.*, pp. 2–3.

[14] Charles C. Royce, *Indian Land Cessions in the United States.* (Washington: Smithsonian Institution, 1899), 18th Annual Report of the Bureau of American Ethnology, pt. 2.

[15] *Ibid.*, p. 550.

After the early round of Indian wars the English learned that it was normally better to negotiate with the Indians and acquire their land by purchase than to fight for it. The Indians learned that the English colonists had come to stay. It seemed necessary, therefore, to work out methods of relating to one another.

The Spanish Indian Program

Although there was a close working relationship between church and state in Spain, in actual practice the interest of the Spanish conquistador and the missionary in the Indian were often in direct conflict. To the former, the Indian was a source of labor, to be put to work on the plantations and in the mines. To the latter, the native American was first the object of conversion to Christianity.

South of the Rio Grande, in Middle America, South America, and the Caribbean there were probably 12 to 13 million Indians, many of whom lived in established communities, tilled the soil, and worked as artisans in wood, stone, and metal. This factor alone required that the Spanish work out a somewhat different policy for dealing with Indians than that to be followed by either France or England, both of whom had secured for colonization regions that were relatively sparsely populated, and that were inhabited by Indians of a less sedentary nature.

In the first decades of the Spanish conquest, the Crown made grants of land, or *repartimientos*, and appointments of Indians, or *encomiendas*, to the conquistadores in return for services rendered. The Spanish landlord received the privilege of collecting a tribute, in money or in labor, from the Indians assigned to him. In return for this privilege the Spaniard was expected to provide for the conversion of his charges, live in the same district, and protect them from any outside incursions.

As a result of the conquest, and of the process of incorporation into the Spanish civilization which was technically far in advance of their own, the native population mentioned above was probably reduced by more than a third. The Indians suffered disastrously in morale because of the rapidity and unexpectedness of the conquest, as well as in mortal conflict and through contact with the white man's diseases.

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[16] *Ibid.*, p. 563.

Through the persuasion of the missionaries, a great body of paternalistic legislation, often evaded in practice, was gradually developed that gave the Indians the protected status of wards of the Crown. As such, though legally minors throughout their lives, they were under the direct surveillance of the king's personal representatives in the colonial organization. Although in a wardship status, the Crown required that the Indians be recognized as fellow subjects and as "free persons" with legal rights.

Bartolome de las Casas and other missionaries, by mid-16th century had persuaded the Crown to enact the "New Laws of the Indies" which made the enslavement of Indians illegal; and the Law of February 22, 1549 which outlawed the substitution of personal service to the *encomendero* in lieu of tribute.

The role of the missions in the Spanish program for the Indians is outlined briefly by Ralph Emerson Twitchell:

> It was not the Spanish policy nor was it the intention of the government to found missions in the New World solely for the benefit of the savages. Philanthropic motives no doubt existed and influenced the rulers, but to civilize and convert the natives to the faith meant not only the rescue of savages from perdition, but the enlargement of the church influence and wealth, preparation for future colonization, and naturally the extension of Spanish power. This was the end in view, but the "benditos padres," who had charge of these enterprises were almost without exception, consecrated to one idea, and that was the inculcation of the faith and the consequent salvation of souls.[17]

Gradually certain basic expectations were evolved that directed the way the Spanish proceeded, in general, to approach their relations with the Indians. These expectations are stated succinctly by Edward H. Spicer in a paragraph from his study *Cycles of Conquest:*

> There was no uncertainty at high policy levels as to what it was that the Spaniards had to offer the Indians. Church and

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[17] Ralph Emerson Twitchell, *The Leading Facts of New Mexican History* (2 vols., Cedar Rapids, Iowa, 1911), vol. 1, p. 253, note.

civil officials were in agreement from the start on what the Indians should be made to accept as fundamental elements of civilization. It was agreed that Spanish regal authority and law must be the framework of Indian life. It was also agreed that the setting for these primary elements of civilization must be town life. In addition, the Indians must be made to dress in the Spanish manner at least to the extent of trousers and shirts for men and skirts and upper garments for women. They must also practice monogamy and employ formal marriage ceremonies, and they ought to live in adobe or stone houses. It is doubtful that any Spaniard who thought about a program of civilization would have omitted any of these items, although there were certainly differences of opinion about precisely what features of each trait-complex were essential.[18]

The French Indian Program

We are informed by some historians that "of all the white men, the Indians preferred the Frenchmen,"

> In intercourse with them, the French neither treated them, as did the Spaniards, as minors or "wards" whose every action and opinion must be supervised, nor did they despise them as the English obviously did, even while recognizing their title to the soil and their right to bargain and make treaties. The attitude of the French was more like that of an older brother who might coax, scold, punish, deceive, or seek to impress his primitive kin, but who never attempted to enslave him or behave contemptuously toward him.[19]

The French, it appeared, possessed a peculiar genius for securing the cooperation and retaining the good will of the Indians. In seeking the furs that were the most dependable source of revenue, it was the Indians of New France that led the *Coureurs de Bois* ever further into the interior, and that thereby aided the French in their westward exploration and discoveries. As they followed up on their contacts with the Indians, the French powers of endurance, skill in felling the forests, and ability to live under difficult conditions with a measure of cheerfulness and tranquility were "unrivalled by the people of any other European nation." [20]

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[18] Edward H. Spicer, *Cycles of Conquest* (Tucson: University of Arizona Press, 1962), pp. 281–282.

[19] Vera Brown Holmes, *A History of the Americas* (New York: Ronald Press Company, 1950), p. 311.

In keeping with their general approach to relations with the Indians, the French missionaries, in contrast to the Spanish and Portuguese, used only persuasive methods in their attempts to convince the native Americans they should become converts to Christianity. Although the end result of their efforts seem small, because the French eventually lost out in their efforts to permanently control an area in North America, "In the French colonies, missionary efforts constituted perhaps the most admirable aspect of the whole colonial movement." [21]

There was conflict between the missionaries and the frontiersmen in the French colonies as well as the Spanish. The fur trader wanted to use liquor as a trade item to facilitate the competition for the desired product. The French missionaries threw all their influence on the side of prohibition. In their efforts to secure the souls of the Indians the missionaries often expressed the feeling that their job would be much easier if the government would keep the amiable and lusty fur trader away from the established Indian villages.

In 1609, while accompanying his allies the Algonquian Indians on a journey to the lake that would later bear his name, Samuel de Champlain had a chance encounter with the Iroquois. To protect the Algonquians, Champlain ordered his men to fire on the Iroquois. As a result the Iroquois later aligned themselves with the English against the French and the Algonquians, and thereby struck some telling blows against the success of the French in North America.

With the successful conclusion of the French and Indian War in 1763, the English inherited New France, which became Canada. By the Proclamation of 1763, the English established an Indian frontier. The area west of the line was temporarily reserved for the Indians. The success of the Indian policy of the French was evident even after their defeat, when in the conspiracy of Pontiac the former French Indian allies lashed out at their English conquerors in an abortive attempt to cut them off from the outlying fortified trading posts established by the French to control the two great water systems of the Mississippi and the St. Lawrence.

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[20] *Ibid.*

[21] *Ibid.*, p. 310.

The influence of the French fur traders continued to be felt among the Indians west of the Mississippi and along the upper Missouri River through the first quarter of the 19th century. It was a French trader Toussaint Charbonneau, with the Shoshone Indian girl Sacajawea as a companion, who served as guide and interpreter for Lewis and Clark on their expedition west along the upper Missouri, across the Rocky Mountains, and to the Pacific Ocean.

The Dutch Indian Program

The Dutch, like other Europeans, tended to follow the Indian policy necessary to secure the advantages they sought. They recognized the Indians prior right to the soil and purchased land desired for their settlements and for agricultural purposes. On occasion, when they were charged by the Indians with paying too little for land, they subsequently paid more to avoid conflict.

Dutch policy was not necessarily uniform throughout their area of interest. Guns were used as a trade item to secure furs from the Iroquois, but were not made available in the settled area of New Netherlands where they could upset the balance of power between the colony and the surrounding Indian settlements. The Crown discouraged the use of liquor in the fur trade, but it was used when the traders found that competition demanded it.

The Dutch and the Indians tended to live apart, both physically and as two separate cultures. Little effort was made to do missionary work among the Indians. There was almost no intermarriage and not much miscegenation. The reason for this sexual apartheid was apparently due as much to religion as to racial prejudice, as Professor Hanke suggests above.

When New Netherland became New York after the English conquest, the precedents that had been set by the Dutch were followed rather closely by the English, both in the settled areas and in the fur trade. If anything, the Dutch tended to be more liberal in their land policy and more sophisticated in their cultural relationships. They probably did less than the Spanish, French, or English to encourage conversion or cultural assimilation.

The English Indian Program

It is clear that there were similarities and differences in the relations of the Spanish, French, Dutch, and English with the Indians.

Each grew out of similarities and differences between their political systems at home, the Indian groups encountered in the different areas, and the basic nature and character of the four peoples: the way each had learned to interact within the four separate social and political systems.

One thing, however, was common to all four groups: In each case the Crown attempted to act toward the conquered people in such a way that the European states could to their own satisfaction maintain their national credibility; also in each case the frontiersman or neighbor acted toward the native generally in the way that was advantageous to him, in the face of laws to the contrary that may have been issued by the Crown or their representatives. One example was the use of liquor as a trade item. The official position of the Crown was almost always against making liquor available to the Indians. In actual practice the trader or frontiersman found a way to use it when it was to his advantage to do so.

On the English frontiers in particular there seemed to be a general attitude of hostility toward the native Americans. The Englishmen had not experienced as much regular contact with people of other races when the age of discovery, trade, and the establishment of colonies began. Intermarriage and miscegenation seem to have been less desirable to the Englishman than to his Spanish or French counterpart.

Once the Englishman had learned that the Indian was going to maintain a separate identity, and that he would not, by choice, and by a natural course of events, begin to give up Indian ways and adopt English ways, the Indian became an undesirable creature and a foreigner. As such he became a mere obstacle that stood in the way of securing whatever the Englishman wanted that the Indian had. In the face of laws passed by the Crown to protect the Indian, the frontiersman usually found some way to get around this obstacle.

To some extent, the history of Indian policy is a record of the interaction between the Crown or national governments, and the frontiersman or local government, in their relations with Indians. The central governments of European and American nations have developed their policies step by step, in an attempt to govern the relations between the Indians and their neighbors in a way that would protect the Indian until he was able to cope with the more aggressive European or American.

While the Crown was normally the source of agreements between the Europeans and the Indians, those who governed the English colonies in America were considered to be the representatives of the Crown. As such they were authorized to work out practices to govern relationships with the Indians. Under such an arrangement there were bound to be differences in the Indian programs from colony to colony.

One of the basic features of the relationships between Indian and non-Indian was trade. The drive was to secure and keep this trade. There was competition not only between the European powers, but also between the different English colonies. Attempts were made to secure uniform practices from colony to colony, but by mid-18th century it was recognized that colonial management had failed. Trade was not adequately controlled. The Englishmen regularly encroached on Indian lands. To show their resentment the Indians periodically attacked the English settlements.

Based largely upon information secured in conferences with the Indians during the Albany Congress of 1754, and because the English learned that more Indians supported the French program than their own, in 1755 steps were taken to remove Indian affairs from the control of separate colonies and place them directly under the British government. To carry out this program Sir William Johnson was appointed superintendent over the Indians in the northern department and in 1756, Edmond Atkin became superintendent in the south. In 1762, Atkin was replaced by John Stuart. The two superintendents were given full responsibility for all relations between the English colonists and the Indians.

By 1763, as a result of their experience, the English had learned that they got along best with the Indians when they were separated some distance from them. Based on this experience, at the close of the French and Indian War, King George III issued the Proclamation of 1763, which established boundaries for the colonies, encouraged colonists to settle in the newly acquired areas east of the proclamation line, and outlined a new policy to govern Indian affairs.

The most revolutionary departure from the previous program in Indian affairs was the recognition of a boundary line that separated Indian lands from non-Indian lands. The result was the creation of an "Indian Country." This area, generally to the west, was reserved for the Indian. The officials of the established colonies were forbidden "for the present, and until our further Pleasure be known," to allow surveys or to grant lands beyond the watershed of the Appalachians. Any persons who had already established themselves in "Indian Country" were ordered to remove themselves.

In regard to this proclamation time soon made a practice apparent that was to recur again and again in the future. Established lines, with military power to secure those lines, might keep Indians in Indian country, but that military power could not guard the Indians against the political pressures that allowed settlers to invade Indian country. Troops could keep Indians in, but they *would not* be used consistently to keep non-Indians out.

In the controversy that would develop between Great Britain and the Colonies after 1763, the Indian's causes of complaint almost all came from the colonist's abuses of the Indian trade and encroachment on Indian lands. The British officials had a better record in their dealings with the Indians, and they did not fail to remind them of this. As the controversy heightened, the Indians tended to give their support to the British rather than the colonists.

Jurisdiction over Indians

Since we assume that independent, established Indian tribes were self-governing and sovereign before the colonization of the Americas by European powers, we should also recognize that after the establishment of European colonies, and their subsequent continuing expansion into Indian territory, tribal sovereignty and self-government have been gradually but persistently weakened, and in some cases entirely extinguished.

One of the first steps taken by the European nations was to extend their "protection" over the Indian tribe. They then proclaimed to the Indians that they were vassals or subjects of the king of a European nation. Thus at once the supposedly unlimited sovereignty the tribe had possessed became, at least in the mind of the European, a limited sovereignty. In order to "protect" the tribe, the European nation established its jurisdiction over the tribal territory.

It was usually understood that local government was a tribal matter, but if a citizen of the European nation that acted as the tribe's "protector" was charged with illegal action and punishment was threatened by the tribal government, the protecting nation would often intervene on behalf of its citizen in spite of the fact that the illegal action occurred within tribal territory. In actual practice, in a variety of ways, the "protector" tended to become involved in the internal affairs of the tribe.

A national criminal jurisdiction over tribal actions tended to follow these practices:

> It is noteworthy that the United States Congress from its beginning, in various and fluctuating degrees, has continually and to an increasing extent asserted criminal jurisdiction over Indians and Indian territory, irrespective of the fact that Indian tribes were sovereign in the sense that, the United States negotiated and concluded treaties with them until 1871.[22]

In addition to, and sometime prior to this criminal jurisdiction, an economic surveillance was extended over the territory occupied by the tribe. All of this was done, of course, as a part of this role of protector, or guardian. Sometimes it was done in good faith. At other times it was done because it was good politics or good business.

Gradually, as the European then American nations continued to infringe upon this now limited tribal sovereignty and the rights of the tribe as a self-governing entity, tribal leaders recognized that they were no longer entirely free to make decisions in the customary ways. There was now an outside entity whose interests would have to be considered in a variety of ways. Since these Indian leaders were no longer free, they could no longer be truly responsible.

One of the elements we will need to watch, as we observe the results of changes of policy toward the Indians, is the effect, not only of outright assumption of jurisdiction, but also of the subtle influences that are brought to bear that may have devastating consequences on the economy, the social values, and the way of life of a tribe, or of specific Indian communities.

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[22] Brent H. Gubler, "A Constitutional Analysis of the Criminal Jurisdiction and Procedural Guarantees of the American Indian." Doctoral dissertation, Syracuse University, September 1963, p. 24.

CHAPTER TWO

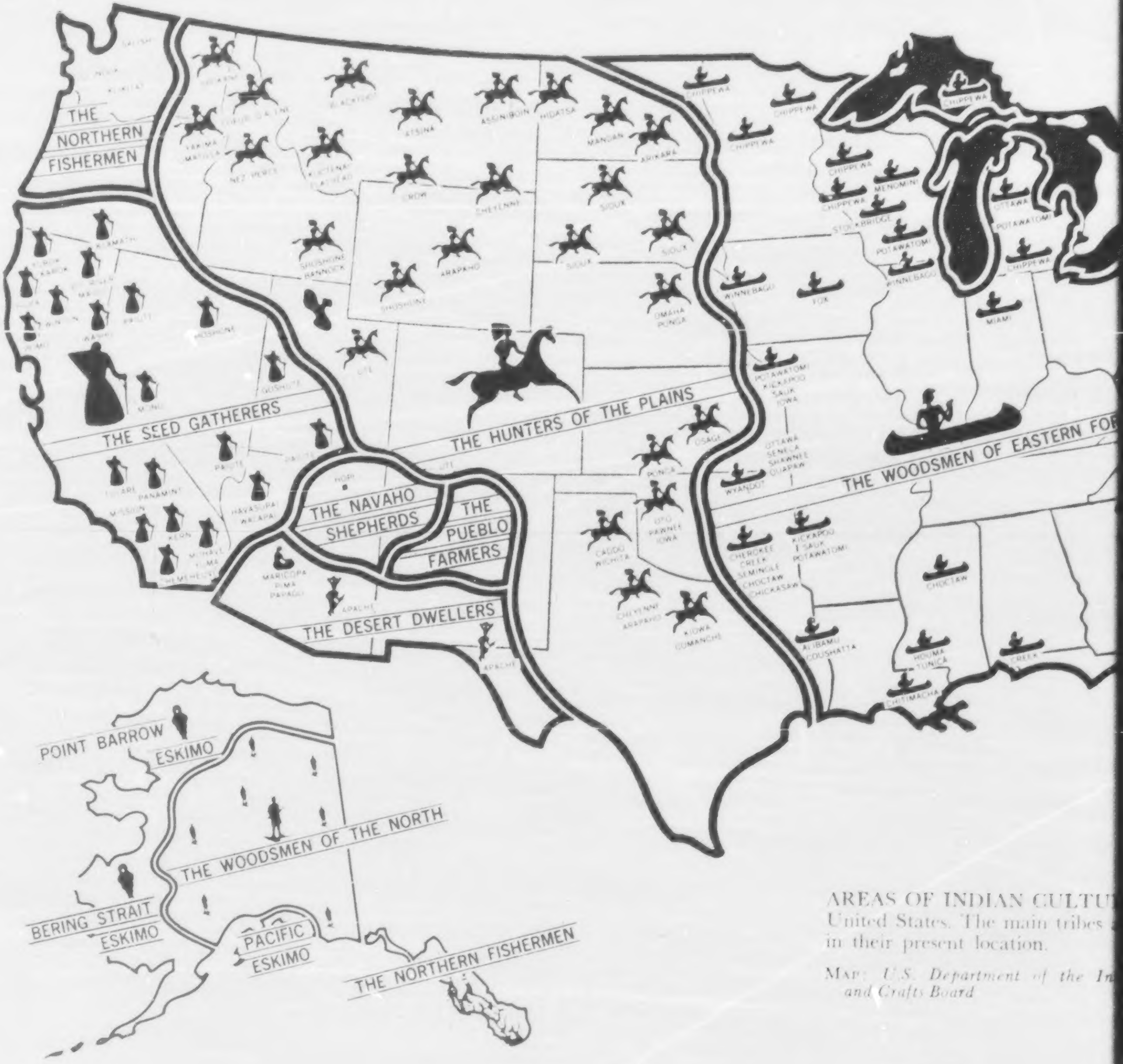
TREATIES AND INDIAN TRADE

As we view the beginnings of relations between the Indians and the English colonies along the Atlantic seaboard that would soon become the United States, we need to remind ourselves of the experiences the European powers have already had with Indians as summarized in the previous chapter. From these experiences and the precedents established during the colonial period the United States would formulate her Indian policy.

Some of these precedents to be kept in mind are: (1) The Indian tribes were to be thought of as separate nations and dealt with by treaties arrived at by diplomatic relations according to precedents established by international law. (2) As a separate nation, the internal affairs of an Indian tribe were the responsibility of the tribal authorities and were not supposed to be tampered with by the United States. (3) As relations with Indian tribes were considered to be between nations, they were to be handled by the central government, and not by the States. An exception would be cases where the original colonies had already "internalized" relations with particular tribes. In such cases those States continued programs already established during the colonial period.

What the citizens of the United States would want from the Indians was the same as their European predecessors had desired: to secure possession of Indian land and natural resources for personal use, and to establish trade relations that would allow a mutual exchange of surplus products. The role of the central government would be to work out in treaties with the Indian tribes a system by which this could take place in as orderly a way as possible.

Also, under the United States as with the European colonies, the role of the religious organizations would continue to be basic in the process of bringing "civilization" to the Indians. What we now think of as public or secular education for Indians was left largely to the churches until the end of the "treaty period" in 1871. Teaching the rudiments of agriculture was considered part of the "civiliza-



THE NORTHERN FISHERMEN
SALISH
CHINOOK
KLIKITAT
SPOKANE
COEUR D'ALENE
YAKIMA
UMATILLA
NEZ PERCE
KUTENAI
FLATHEAD
BLACKFOOT
ATSINA
ASSINIBOIN
HIDATSA
MANDAN
ARIKARA
CROW
CHEYENNE
SIOUX
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SIOUX
SHOSHONE
BANNOCK
SHOSHONE
ARAPAHO
OMAHA
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KLAMATH
HUPA
WINTUN
POMO
WASHO
PAIUTE
SHOSHONE
GOSHUTE
MONO
THE SEED GATHERERS
THE HUNTERS OF THE PLAINS
TULARE
PANAMINT
MISSION
KERN
MOHAVE
YUMA
CHEMEHUEVI
PAIUTE
HAVASUPAI
WALAPAI
HOPI
UTE
THE NAVAHO SHEPHERDS
THE PUEBLO FARMERS
MARICOPA
PIMA
PAPAGO
APACHE
APACHE
THE DESERT DWELLERS
OSAGE
PONCA
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PAWNEE
IOWA
CADDO
WICHITA
CHEYENNE
ARAPAHO
KIOWA
COMANCHE
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MENOMINI
STOCKBRIDGE
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POTAWATOMI
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SAUK
IOWA
OTTAWA
SENECA
SHAWNEE
QUAPAW
WYANDOT
THE WOODSMEN OF EASTERN FO
CHEROKEE
CREEK
SEMINOLE
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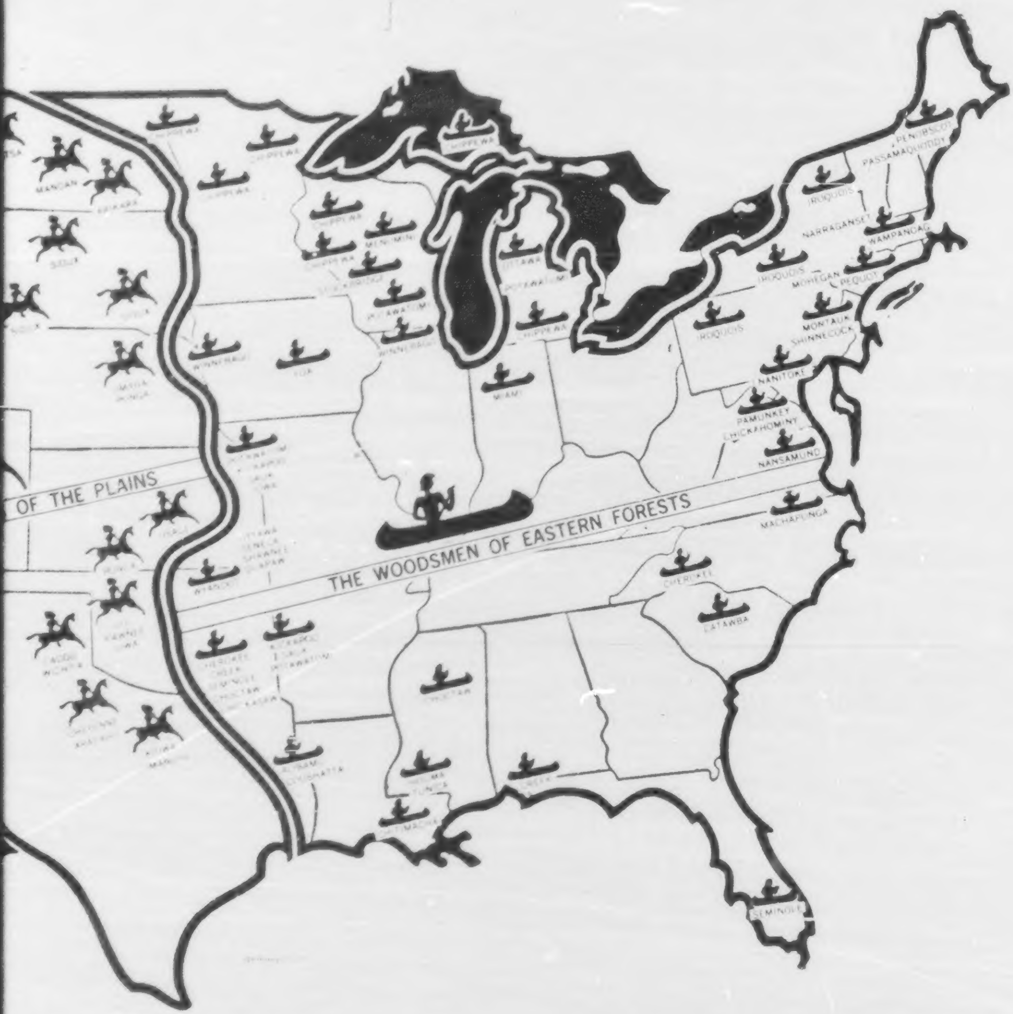
CHICKASAW
KICKAPOO
SAUK
POTAWATOMI
CHOCTAW
ALIBAMU
COUSHATTA
HOUMA
TUNICA
CHITIMACHA
CREEK
POINT BARROW ESKIMO
THE WOODSMEN OF THE NORTH
BERING STRAIT ESKIMO
PACIFIC ESKIMO
THE NORTHERN FISHERMEN

AREAS OF INDIAN CULTU
United States. The main tribes
in their present location.

MAP: *U.S. Department of the In*
and Crafts Board


CHIPPEWA
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SHAWNEE
QUAPAW
WYANDOT
THE WOODSMEN OF EASTERN FORESTS
PAWNEE
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POTAWATOMI
CHEYENNE
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KIOWA
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COUSHATTA
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HOUMA
TUNICA
CHITIMACHA
CREEK
CHEROKEE
CATAWBA
SEMINOLE
PENOBSCOT
PASSAMAQUODDY
IROQUOIS
NARRAGANSET
WAMPANOAG
IROQUOIS
MOHEGAN
PEQUOT
IROQUOIS
MONTAUK
SHINNECOCK
NANITOKE
PAMUNKEY
CHICKAHOMINY
NANSAMUND
MACHAPUNGA

AREAS OF INDIAN CULTURE in the United States. The main tribes are shown in their present location.

MAP: *U.S. Department of the Interior Arts and Crafts Board* tion" and "education" process. Since the United States was not involved with internal tribal affairs, matters of health, welfare, and community life were also of concern to the missionaries, whether Protestant or Catholic.

The population of the English seaboard colonies and of the United States in the late 18th and early 19th centuries was small. The Indian tribes were relatively much more powerful then than they would be in the second half of the 19th century. For this reason relations with the Indians were matters that the President of the United States, his Cabinet, and the Congress gave considerable attention. Good relations with the Indians were essential to orderly development along the western borders, and to the maintenance of peace while the Nation established itself firmly in the settled areas of the East.

THE CONTINENTAL CONGRESS AND THE CONFEDERATION

Under the direction of the Continental Congress of 1775, a Committee on Indian Affairs was organized in an attempt to assert a collective influence among the Indians. Upon this committee's recommendation, three departments were established in place of the two set up under the British. The northern department was to include the Six Nations and the Indians northward; the southern department was to include the Cherokees and other Indians south of them; and the middle department included all those tribes living in the area between the other two.

Benjamin Franklin's plan of union offered to the Albany Congress in 1754, had suggested that a president-general, with the advice of the council, should be given central control of Indian affairs. In a draft for a confederation submitted to the Continental Congress in 1775 Franklin again placed relations with the Indian tribes in the Congress.

Under the Articles of Confederation approved in 1777 but not made effective until 1781, Article IX gave the "United States in Congress assembled" the "exclusive right and power" to regulate the trade and manage Indian affairs "provided that the legislative right of any State within its own limits be not infringed or violated." It was thus accepted, in principle, that the central government should regulate Indian affairs and manage Indian trade. In practice it was not entirely clear what power was given to the Congress and what remained to the States.

By giving the central government power to manage affairs with "Indians not members of any of the States," it was recognized that western Indian affairs were to be placed under Federal control. The concept of an "Indian Country" was thus strengthened. The Federal laws in relation to Indians and Indian trade took effect only in Indian country; elsewhere—that is within the original established States—they did not hold.

Immediately after the Peace of Paris that won the independence of the United States from Great Britain, and officially restored peace September 3, 1783, a proclamation of the Congress bearing the date September 22, 1783 forbade settlement on Indian lands outside State jurisdiction and attempts to secure title to such lands except under the direction of and with the express authority of the Congress. Any purchases or cessions made without such authority were declared null and void.

The first treaty made with Indians by the Continental Congress was that with the Delawares in 1778. Seven other treaties under the Confederation promised to restrict non-Indian encroachment, but in actual practice the central government proved powerless to hold back the advancing settlers and speculators.

By 1786, the Indians of the Old Northwest were so disgruntled with the failure of the United States to abide by agreements and to support their stated policy that they threatened to repudiate all arrangements made with them since the end of hostilities at the close of the war. In the South the difficulties seemed even greater because of the mounting pressure of the settlers for lands held with great tenacity by the Indians.

The Congress stated again and again its authority to act on behalf of the Indians, but these utterances were generally ignored by the settlers and land speculators. In the Northwest Ordinance of July 13, 1787, in words that remind us of the declaration of Pope Paul III, in 1537, the Federal Government again stated its position: "The utmost good faith shall always be observed towards the Indians, their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them."

Henry Knox, Secretary of War, made responsible for Indian affairs by an Ordinance of August 7, 1786, "came to realize that agreements with the Indians based upon the right of conquest did not work and that adherence to such a policy would continually endanger the peace of the frontier."

> The British and colonial practice of purchasing the right of the soil from the Indians was the only method to which the Indians would peaceably agree, and Knox urged a return to that policy. To establish claims by the principle of conquest would mean continuous warfare. He recommended, therefore, that the lands ceded by the northwest Indians be compensated for and that future cessions be acquired by purchase. By the treaties signed at Fort Harmar on January 9, 1789, with the Six Nations and the northwest Indians, the lands granted to the United States at Fort Stanwix and Fort McIntosh were paid for. Small as the payments were, they marked the abandonment of the policy that the lands from the Indians were acquired by right of conquest.[1]

That this practice was continued as a policy of the United States is made evident by Felix Cohen in a statement on Indian title in 1947:

> The historic fact is that practically all of the real estate acquired by the United States since 1776 was purchased not from Napoleon or any other emperor or czar but from its original Indian owners . . . What we did acquire from Napoleon was not the land, which was not his to sell, but simply the power to govern and to tax. . . .[2]

In a report to President Washington dated June 15, 1789, Secretary Knox summarized his feelings concerning the rights of the Indians in their lands, and the policy the Government should follow in acquiring title to Indian land:

> The Indians being the prior occupants, possess the right of the soil. It cannot be taken from them unless by their free consent, or by the right of conquest in case of a just war. To

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[1] Francis Paul Prucha, *American Indian Policy in the Formative Years* (Cambridge: Harvard University Press, 1962), p. 40.

[2] Cohen, *op. cit.*, pp. 34–35.

> dispossess them on any other principle would be a gross violation of the fundamental laws of nature and of that distributive justice which is the glory of a nation.[3]

James Madison was aware of the weakness of the Articles of Confederation in relation to Indian affairs, and felt that they could be improved under the provisions of the Constitution. This is made apparent by his comment in the *Federalist,* No. XLI:

> The regulation of commerce with the Indian tribes is very properly unfettered from two limitations in the Articles of Confederation, which render the provision obscure and contradictory. The power is there restrained to Indians, not members of any of the States, and is not to violate or infringe the legislative right of any State within its own limits. What description of Indians are to be deemed members of a State, is not yet settled, and has been a question of frequent perplexity and contention in the Federal Councils.
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> * * * * * * *
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> . . . And how the trade with Indians, though not members of a State, yet residing within its legislative jurisdiction, can be regulated by an external authority, without so far intruding on the internal rights of legislation is absolutely incomprehensible. This is not the only case, in which the Articles of Confederation have inconsiderately endeavored to accomplish impossibilities; to reconcile a partial sovereignty in the Union, with complete sovereignty in the States; to subvert a mathematical axiom, by taking away a part, and letting the whole remain.

Although there were problems in assessing the proper relationships between the central government and the States during the period of the Confederation, the Congress, under the Articles, was not miserly in its financial relations with Indians. From 1776 to 1789 the Congress paid $580,103.41 to conduct negotiations with the various tribes. To us now, considering the number of Indians involved, this amount seems small, but in relation to the ability of the Congress to pay during that precarious period, the sum was great.

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[3] George Dewey Harmon, *Sixty Years of Indian Affairs* (Chapel Hill: The University of North Carolina Press, 1941), p. 55.

THE CONSTITUTIONAL CONVENTION AND INDIAN AFFAIRS

Since it was a confederation of States met together to consider the problems of the national Government, and then to formulate and secure ratification of the Federal Constitution, and since it had already been recognized that primary responsibility for relations with Indian tribes was in the central government, only two provisions of the original document refer directly to the Indians.[4]

It is Article I, section 8, clause 3 that gives specific constitutional authority for Federal supervision of Indians, but by implication the legislative and executive branches of the central government were elsewhere authorized to do all that then seemed necessary to regulate the relations between the Government and the Indian tribes, and the limitations placed on the States made it clear that they should not attempt to perform those functions.

The President was allowed to make treaties, with the Senate's advice and consent, to send and receive ambassadors, to be Commander-in-Chief of the Armed Forces that the Congress was authorized to raise, to see that the laws passed by the Congress were faithfully executed, to give information on the state of the Union, etc.; in addition, the Congress was given the specific charge "To regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

To clinch the arrangement whereby the central government was made capable of performing these necessary functions on behalf of Indians the framers provided that: the Constitution, and all treaties (including treaties with Indian tribes), "shall be the supreme law of the land; . . . anything in the Constitution or laws of any State to the contrary notwithstanding." [5]

In an assessment of the scope of Federal power in relations with the Indian tribes, Chief Justice John Marshall in *Worcester vs. Georgia* made it clear that the Constitution confers on the national Government "All that is required for the regulation of our intercourse with the Indians. They are not limited by any restrictions on their free actions; the shackles imposed on this power, in the Confederation, are discarded."

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[4] United States Constitution, Art. I, sec. 8, cl. 3; and Art. I, sec. 2, cl. 3.

[5] United States Constitution, Article VI.

THE FORMATION OF INDIAN POLICY UNDER THE CONSTITUTION

As previously mentioned, the Secretary of War, Henry Knox, was made responsible for Indian affairs August 7, 1786. By the same ordinance, the three geographical subdivisions earlier established for the administration of Indian affairs were changed to two: a northern and a southern division, with a superintendent and two deputies for each area. As the first Congress under the new Constitution continued the use of the Secretary of War to manage Indian affairs, Knox's previous experience during the Confederation period, plus his now augmented powers, placed him in a strong position and tended to assure a continuation of existing policy in treating with the Indians.

A second statute referring to Indians reenacted the article on Indian affairs from the Northwest Ordinance of 1787 with minor amendments. A third Congressional Act of August 20, 1789 called for an appropriation of not more than $20,000 to defray "the expense of negotiating and treating with the Indian tribes," and for the appointment of commissioners to conduct the negotiations and treaties. The fourth statute of September 11, 1789 set salaries for the "superintendent of Indian affairs in the northern department." This position was held ex officio by the governor of the western territory.

> In these four statutes we find four important sources of Federal authority in dealing with Indian matters invoked: The power to make war (and presumabley, peace); the power to govern territories; the power to make treaties; and the power to spend money.[6]

George Washington came to the office of President of the United States with an unusual grasp of the intricacies of the Indian problem, as a result of his experiences during the French and Indian War and as Commander-in-Chief during the Revolutionary War. On August 22, 1789 he visited the Senate chamber in the company of Secretary Knox to confer with the Senate in regard to the southern tribes. He quickly reached the central issue in the Indian problem when he stated "the treaty with the Cherokees has been entirely violated by the disorderly white people on the frontiers of North Carolina." [7]

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[6] *Federal Indian Law* (Washington: U. S. Department of the Interior, Office of the Solicitor, 1958), p. 95.

Although President Washington continued to be interested in Indian matters, it was Henry Knox who had the task of formulating Indian policy. Knox felt that a primary source of Indian wars was disputes that related to Indian boundaries. He felt, therefore, that the terms of treaties should be rigidly carried out in order to secure the confidence of the Indians and the respect of United States citizens that lived on the frontier.

Knox further suggested that the emigration of non-Indians should be regulated, and restrained by armed force if necessary. The native population should not be allowed to become extinct, but should be preserved against the migratory pressures of the Nation's citizens. He disagreed with those individuals who felt the Indians did not care to improve their conditions.

It was suggested that the purposes desired might be accomplished by making presents of domestic animals to the chiefs, and appointing persons to teach the use of them; and by appointing missionaries to live among them supplied with the "implements of husbandry" as well as livestock. These men were conceived to be the "instruments to work on the Indians" and "their friends and fathers." [8] Such suggestions became a basis of future Indian policy, although they were never fully carried out.

The maintenance of peace and of friendly relations was the first consideration of both Washington and Knox, but it was soon apparent that it took more than treaties to control the activities of those who resided on the frontier and regularly offended the Indians. The continuing requests from the executive branch for Congressional action to meet this problem were met by a series of laws "to regulate trade and intercourse with the Indians." While originally designed to implement the treaties and enforce their terms against the unruly action of non-Indians on the frontier, these laws gradually became the foundation upon which Federal Indian policy was established.

The first law was enacted July 2, 1790:

> . . . continuing the pattern set in the Ordinance of 1786 and earlier colonial legislation, the law first of all provided for the

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[7] First Cong., 1st sess., *Annals of Congress*, p. 66.

[8] *American State Papers*, Indian Affairs (vol. 1, no. 4, Washington: U. S. Department of the Interior), pp. 53–54.

> licensing of traders and established penalties for trading without a license. Then it struck directly at the current frontier difficulties. To prevent the steady eating away at the Indian Country by individuals who privately acquired lands from the Indians, it declared the purchase of lands from the Indians invalid unless made by a public treaty with the United States. To put a stop to the outrages committed on the Indians by whites who aggressively invaded the Indian Country, the act made provision for the punishment of murder and other crimes committed by whites against the Indians in the Indian Country.[9]

In spite of this legislation disturbances continued on the frontier in both the northern and the southern superintendencies. Washington's annual message to the Congress of October 25, 1791 sought basic principles "to advance the happiness of the Indians, and to attach them firmly to the United States." He outlined a program to accomplish his hope for a rule of law and justice that would not require the use of military force to restrain the Indians when they reacted violently to the illegal actions of U. S. citizens on the frontier. This message was referred to a special committee of the House, and a bill was reported only to die "without debate or action."

Since the Trade and Intercourse Act of 1790 was to expire after two years, the President's Annual Message of 1792 reminded the Congress of this fact, and called for actions to check outrages against the Indians that called forth reprisals in kind, for the employment of agents that were qualified, for activities to promote civilization, and for the carrying on of trade "upon a scale equal to their wants." [10]

March 1, 1793 legislation was enacted that was considerably stronger and more inclusive than that of 1790. This law incorporated some of the requests made by Washington in his annual messages, and as its predecessor was to continue in force for only two years.

The new provisions of the 1793 act prohibited settlement on Indian lands and authorized the President to remove such settlers; dealt with horse thieves and horse traders; prohibited employees in Indian affairs from having "any interest or concern in any trade with the Indians;" provided for the furnishing of various goods and services to the Indian tribes; and specified that Indians within the jurisdiction of any State should not be subjected to trade restrictions.

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[9] U. S. Stats., I, pp. 137–138; as outlined in Prucha, *op. cit.*, pp. 45-46.

[10] *A Compilation of the Messages and Papers of the Presidents, 1789–1914*, compiled by James D. Richardson (20 vols., Washington, 1896–1917), vol. I, pp. 104–105, and pp. 125–127.

The act of May 19, 1796 added a detailed definition of Indian Country, prohibited driving livestock on Indian lands, and required passports for persons traveling into Indian country. The 1796 act for the first time provided for the punishment of any Indian member of a tribe "in amity with the United States who shall cross into any State or Territory and there commit any one of various listed offenses," [11] but the only way the President could punish individual Indians guilty of offenses under the act was to withhold annuities due to his tribe, if the State was not itself able to secure satisfaction on behalf of the injured party.[12]

The act of March 3, 1799, last of the temporary trade and intercourse acts, made only minor changes in the provisions of the 1796 act.

Another statute of special importance enacted during the decade of the 1790's was that of April 18, 1796, which established Government-trading houses with the Indians, under the control of the President. Although abolished in 1822, some of the provisions in this act designed to assure the honesty of employees of the trading establishments have been carried over into the law that now governs Indian Service employees. Control of the trading houses became such an important administrative function that it seemed quite natural, when the program terminated, that the superintendent of Indian trade, an office established in 1806, should become the first head of the Bureau of Indian Affairs.

The payment of annuities in connection with treaty-making commenced in the 1790's with an annuity of $1,500 as consideration for certain land cessions made in a treaty with the Creeks at New York, August 7, 1790. The oldest provision for annuity payments that is still in force is contained in the treaty of November 11, 1794 signed at Canandaigua, New York, with the Six Nations.

The experience of members of the Congress with the four temporary Indian trade and intercourse acts gave them the courage to present the act of March 3, 1799 in more permanent form on March 30, 1802. The only change of any significance was in section 21, which has reference to the liquor problem. This gave authorization to the President to take whatever steps that seemed necessary "to prevent or restrain the vending or distribution of spirituous liquors among all or any of the said Indian tribes," to help assure fairness in trade and to assist with the maintenance of peace on the frontier.

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[11] *Federal Indian Law* (1958), p. 98.

[12] *Ibid.*

In December 1801 when President Thomas Jefferson sent his first annual message to the Congress, he was able to inform its members "a spirit of peace and friendship generally prevails" in the Government's relations with the Indian tribes. As temporary laws governing trade and, trading houses expired, he recommended to the Congress that the necessary action be taken to renew them.

Although the new trade and intercourse act that became law on March 30, 1802, was largely a continuation of the four temporary acts of the 1790's, it would remain in force as the "basic law governing Indian relations," with additions from time to time as necessary, until the new codification of Indian policy in 1834.

Two acts of this period serve to remind us that Indian affairs were conducted by personnel under the direction of the Secretary of War. That of January 17, 1800 entitled "An act for the preservation of peace with the Indian tribes" provides in the first section:

> That if any citizen or other person residing within the United States, or the territory thereof, shall send any talk, speech, message, or letter to any Indian nation, tribe, or chief, with an intent to produce a contravention or infraction of any treaty or other law of the United States, or to disturb the peace and tranquility of the United States, he shall forfeit a sum not exceeding two thousand dollars, and be imprisoned not exceeding two years.[13]

Apparently meant to keep belligerents from inciting tribes on the western frontier, this provision of law[14] remained on the books until repealed by the act of May 21, 1934.[15]

The act of May 13, 1800 "provided for the issuance of rations out of Army provisions to Indians visiting the military posts of the

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[13] 2 Stat. 6.

[14] The provision was incorporated in the act of June 30, 1834, sec. 13, 4 Stat. 729, 731, and became R. S. sec 2111 and 25 U. S. C. 171.

[15] 48 Stat. 787. See 25 U. S. C. A. 171 (Supp.).

United States," and also made it permissible to pay the "expenses of Indian delegates on their visits to Washington." [16]

THE FACTORY SYSTEM

In reference to trading houses, the law of 1806 confirmed the more important provisions of previous acts and allowed such establishments to be extended to the area beyond the Mississippi. A sum of $260,000 was appropriated to allow the newly authorized superintendent of Indian trade to carry on trade and intercourse with the Indians. The law required that at least six annual public sales be held to dispose of the goods acquired from the Indians. No more than two such sales were to be held in a particular year in any one State.

Under the factory system "the factor was by no means a free agent. He was told specifically what to do and what not to do . . . He could neither carry nor sell liquor to red men: if he did so, or even attempted to trade without a license, the traders were authorized to seize his goods for their own use. Thus the United States hoped to regulate and contract trade by means of trading houses and the license system. The policy of the United States differed from that of the British, French, and Spanish regimes in this respect, that her laws acknowledged that the rights of the original owners of the hunting grounds should be recognized and respected, as well as those of the traders." [17]

It had been the hope of the United States officials that the factory system would allow their representatives to undersell the British rivals and soon eliminate them from the trade, however, the United States was not successful in driving British and Spanish traders out of her territory until after the War of 1812. Some competition continued even after that date, in the face of continued warnings to authorities representing Spain and England.

By 1810 a permanent trading fund in the amount of $300,000 had been appropriated by the Congress. All but $20,000 of this sum was drawn from the Treasury and made available to public agents to facilitate the Indian trade. Of the said sum, $280,000 had thus been actually employed. The superintendent of Indian trade reported in 1810 that the sum had by then dwindled to less than $250,000.

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[16] *Federal Indian Law* (1958), p. 100.

[17] Harmon, *op. cit.*, p. 104.

December 19, 1811 by resolution of the House of Representatives the President was asked to submit a statement indicating how the capital made available for Indian trade had been employed. On January 16, 1812 the superintendent of Indian trade replied "that of the $300,000 appropriated only $290,000 had actually been employed in the trade. He stated that he had received from the factories furs and peltries to the value of $47,996, and many of these articles were still on hand unsold . . . After all expenses had been paid, the factories had netted a gain of $14,171.30 from 1808 to 1812." [18]

Public demand for the peltries had proven unequal to the supply. Since the market was restricted to the United States, sacrifices had to be made in order to dispose of the product. Also, under the factory system it was necessary for the factors to buy the product offered for sale even when the market was over-supplied in order to keep the Indians from trading with rival establishments of other nations.

From 1806 to 1822 the United States paid to employees $413,209.90 to keep the factory system in operation, a tidy sum for that period. The Congress, however, had appropriated several thousand dollars more than was spent, so we should congratulate the Government officials, in memory, for refraining from spending a still larger sum.[19]

The act of May 6, 1822 abolished United States trading houses with Indians. However, another law "specifying the conditions under which licensed Indian traders were to operate" was enacted that same day.[20] Authority to closely supervise these traders continued to be lodged in administrative officials by this and subsequent legislation.

One section of the above-mentioned act established a rule, still in force, which as presently codified declares: "In all trials about the right of property in which an Indian may be a party on one side, and a white person on the other, the burden of proof shall rest upon the white person, whenever the Indian shall make out a presumption of title in himself from the fact of previous possession or ownership." [21]

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[18] *Ibid.*, pp. 122–123.

[19] *Ibid.*, pp. 132–133.

[20] Act of May 6, 1822, ch. 58, 3 Stat. 682.

[21] 25 U. S. C. 194, derived from act of June 30, 1934, sec. 22, 4 Stat. 729, 733; R. S. sec. 2126.

FEDERAL CRIMINAL JURISDICTION IN INDIAN COUNTRY

A system of criminal justice, that applied to Indians as well as non-Indians within Indian country, was established by the act of March 3, 1817. This provided "that Indians or other persons committing offenses within the Indian country should be subject to the same punishment that would be applicable if the offense had been committed in any place under the exclusive jurisdiction of the United States." [22] Jurisdiction to try such cases was given to the Federal courts. The criminal jurisdiction inherent in the Indian tribes was to be safeguarded by the following provision: "nothing in this act shall be so construed as to affect any treaty now in force between the United States and any Indian nation, or to extend to any offense committed by one Indian against another, within any Indian boundary." [23] With some modifications, the provisions of this statute are still found in existing law.[24]

THE CIVILIZATION AND EDUCATION OF INDIANS

The act of March 3, 1819 is another noteworthy statute from this period:

> . . . for the purpose of providing against further decline and final extinction of the Indian tribes, adjoining the frontier settlements of the United States, and for introducing among them the habits and arts of civilization, the President of the United States shall be, and he is hereby authorized, in every case where he shall judge improvement in the habits and conditions of such Indians practicable, and that the means of instruction can be introduced with their own consent to employ capable persons of good moral character, to instruct them in the mode of agriculture suited to their situation; and for teaching their children in reading, writing, and arithmetic, and performing such other duties as may be enjoined, according to such instructions and rules as the President may give

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[22] *Federal Indian Law* (1958), p. 100.

[23] Sec. 2, 3 Stat., 383.

[24] *Federal Indian Law* (1958), p. 101.

> and prescribe for the regulation of their conduct, in the discharge of their duties.[25]

The second section of the act cited above "established a permanent annual authorization of $10,000" to carry out the provisions of the first section.[26] The efforts to establish a program of Indian education during this period were left almost entirely to the missionaries. Since the Government had no organization to supervise Indian education, the annual $10,000 appropriation was "apportioned among the missionary societies, and later, as treaty funds became available for education, these were also paid to the missionary establishments." [27]

For the period from 1819 to 1842, $214,500 of Government funds was spent through the missionary organizations, plus $180,000 from the funds of these societies. By 1842, 37 schools were in operation, with 85 teachers and 1,283 pupils. Here we have an example of policies in conflict, with efforts being made to civilize the Indians at the same time pressures were continued to remove them from the settled communities to the frontier, where they were placed in direct and continuing contact with the less desirable elements of the non-Indian society.[28] The two main causes of Indian difficulties continued to be liquor, that always proved to be available even though its sale to Indians was illegal, and the improper seizure occupance, and use of Indian land.[29]

In reply to opposition to the continuation of the civilization fund the Senate Committee on Indian affairs stated:

> The annual appropriation of ten thousand dollars has encouraged the benevolent and the pious, in many parts of the country, to form associations and collect donations with the view of aiding the humane purposes of the Government. Hundreds of such associations are now in active operation; and they are much cheered in their exertions by the rapid advances to civilization which the Indians have made.
>
> It requires but little research to convince every candid mind

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[25] Ch. 85, 3 Stat. 516, R. S. Sec. 2071, 25 U. S. C. 271.

[26] *Federal Indian Law* (1958), p. 101.

[27] Laurence F. Schmeckebier, *The Office of Indian Affairs* (Baltimore: Johns Hopkins Press, 1927), Government Research Monograph No. 18, p. 40.

[28] *Ibid.*

[29] *Ibid.*, pp. 40–41.

> that the prospect of civilizing our Indians was never so promising as at this time.[30]

The civilization fund was continued, but the change in policy that eventually included forced removal of the eastern tribes to the area west of the Mississippi prevented the acceleration of the progress that was then being realized.

THE ADMINISTRATION OF INDIAN AFFAIRS

Within the territories of the United States it was the practice to have the governors be ex officio superintendents of Indian affairs. Such an arrangement was expected to eliminate conflict between the new settlers and the original inhabitants. These superintendents, and the Indian agents assigned to them, were instructed to enforce the trade and intercourse acts. Actually, however they themselves were not able to exercise any coercive power. Only local marshals and the territorial courts were available to give assistance in bringing offenders to justice.

In actual practice within the Indian country itself, these agents assigned the responsibility to look after Indian affairs found it necessary to call upon the commandant of some nearby military post to secure the necessary assistance to apprehend the violators of the law against the sale of liquor to Indians, to drive intruders off Indian lands, and to guard against lawlessness and undue violence in general. One can see that there would be a tendency for the Indians to come off second best if their protection had to depend on local government agencies, or if the combination governor and superintendent found it necessary to call for help from the Army to protect the interests of the Indians against the encroachments of local citizens.

Confusion also grew out of the requirement that the combination governor-superintendent report to the Secretary of State as governor of the territories, but to the Secretary of War in his capacity as superintendent of Indian affairs. Even when the governor's intentions were good, he could not successfully support the Indian's desire to retain his land and take advantage of the proffered civilization if the Indian lands lay in the path of the advance of the enfranchised frontiersmen. As so aptly stated by Professor William

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[30] Harmon, *op. cit.*, pp. 165–166.

T. Hagan: "Regardless of the century, the reactions of a frontiersman to the sight of good arable land in the possession of an Indian were as easy to predict as the reflexes of Pavlov's dog." [31]

William Henry Harrison, as governor of Indiana territory from 1800 to 1812 was "prime mover in fifteen treaties which quieted title to most of what is today Indiana and Illinois, a segment of Ohio, and smaller portions of Michigan and Wisconsin, at bargain prices which seldom ran over a cent an acre." [32] Until 1811 this was accomplished without the involvement of violence, and "legally, if not ethically." [33]

WESTERN UNREST AND THE WAR OF 1812

Although they joined the eastern merchants in talk of freedom of the seas, the grievance of the western war hawks was actually an Indian grievance. In 1811, Tecumseh's forces led by the Prophet were repulsed by the army in the "battle of Tippecanoe" and Prophet's Town was burned. When Tecumseh returned from a visit to the southern tribes and discovered what had happened, he no longer attempted to restrain his forces. A full scale frontier war ensued. The following June this merged with the War of 1812. On the western frontier Tecumseh's forces aligned themselves with the British and gave a good account of themselves in several battles, but Tecumseh was killed. After the Treaty of Ghent the British evacuated Prairie du Chien, Mackinac, and Fort Dearborn, and that epoch in Indian affairs came to an end. With the British removed the relationships on the northwestern frontier in the future would be strictly between the Indian and the representative of the United States or its citizens.

Relations between the Indians and the United States changed after the War of 1812. Twelve States came into the Union between 1816 and 1848. Pressure on the frontier from this flood of settlers set up a cry for more and more land. In the face of this onslaught, the position of the Indian tribes, already weakened by their losses as a result of the war, deteriorated further.

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[31] William T. Hagan, *American Indians* (Chicago: University of Chicago Press, 1961), p. 44.

[32] *Ibid.*, p. 56.

[33] *Ibid.*

> The force of the intruders was too great to be held back. Temporarily it could be halted, but the intruders were a mobile lot . . . The more frequently the government acquiesced in the illegal settlements, the more difficult it became to take really effective action. The settlers knew they would be treated more or less considerately. They knew that the government did not have the troops for a continuing and effective patrol of the Indian lands. They had little fear that civil action would succeed against them, for they could rely on sympathetic courts, and there was an increasing number of examples of government action to cover such settlements by formal treaties to extinguish Indian title.[34]

There was never any question but that the accepted policy of the United States, repeatedly and consistently solemnized by treaty with the Indian tribes and ratified by the Senate, was to recognize the rights of the Indian tribes to the land, but the views of the settlers, as they reached the frontier where they came in contact with the Indians, was an entirely different thing. "Their doctrine was simpler and earthier, . . . They saw the rich lands of the Indians and they wanted them." [35] Their feelings were summed up by John Sevier, an aggressive example of the frontier leader: "By the law of nations, it is agreed that no people shall be entitled to more land than they can cultivate. Of course no people will sit and starve for want of land to work, when a neighboring nation has much more than they can make use of." [36]

In the face of explicit laws and proclamations, why did not the United States take the necessary measures to prevent encroachment? "Indian agents simply lacked the necessary means. The civil authorities *could not be relied upon* to prosecute or convict violators; and the army on the frontier was too small to police the whole area successfully." [37]

> But behind these failures was a larger issue. The federal government was sincerely interested in preventing settlement on Indian lands only up to a point, and it readily acquiesced in illegal settlements when they had gone so far as to be

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[34] Prucha, *op. cit.*, pp. 162–163.

[35] *Ibid.*, p. 143.

[36] *Ibid.*, a quotation from Robert H. White, *Messages of the Governors of Tennessee* (5 vols., Nashville, 1952–1959), I, 58, John Sevier to James Ore, May 12, 1798.

[37] *Ibid.*, p. 186.

> irremediable. The basic policy of the United States intended that white settlement should advance and the Indians withdraw. Its interest was primarily that this process should be as free of disorder and injustice as possible. The government meant to restrain and govern the advance of the whites, not to prevent it forever.[38]

Difficulties that arose between Army and civilian officers foretold the need that would arise eventually to bring Indian affairs entirely under civilian control. Army officers were sensitive about taking orders from the governor-superintendents even though as Indian superintendents they were, as were the Army officers, functioning under the direction of the War Department.

> The disputes and controversies between agents and officers, however, were more than balanced by the energy and zeal with which most of the frontier commanders undertook to carry out the Indian policy of the federal government. In removing intruders, confiscating liquor, restraining Indian hostilities, and conducting treaties and conferences, the army officers were able and devoted supporters of the government and of the intercourse acts.[39]

The Indian policy of the United States for the period that followed the War of 1812 has received severe criticism by a number of writers, and justly so on many points. We do need, however, to take into consideration the history of the period. With the extreme positions taken on a variety of matters in different parts of the country, it would have been difficult for representatives of the United States to maintain a consistent effort to honor commitments to the Indian tribes.

Sincere efforts were made by Indian agents and the missionary societies to give training in agricultural and mechanical pursuits. Efforts were made to extend opportunities for both secular and religious education, in the face of active opposition. Many precedents were set that continued to be followed for decades, of both the good and bad variety.

By 1818 there were 15 agencies and ten sub-agencies in operation. Between 1796 and 1818 a considerable establishment had thus come into existence under executive patronage. Appropriations for Indian expenditures were general, and were passed on "in silence, and almost in secrecy, until 1818."[40]

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[38] *Ibid.*, pp. 186–187.

[39] *Ibid.*, p. 65.

On April 16, 1818 an act was passed apparently to bring the appointment of Indian officers back to the President *and the Senate* as specified by the Constitution. It states that:

> The superintendent of Indian trade, the agents and assistant agents of Indian trading houses, and the several agents of Indian affairs, shall be nominated by the President of the United States, and appointed by and with the advice and consent of the Senate, and that from and after the eighteenth instant, no person shall act in either of the characters aforesaid, who shall not have been thus first nominated and appointed.[41]

Thus the existing organization was given legislative recognition, without inquiring whether these agencies had been previously established by law. Subsequent agencies were to be established by a legislative act fixing salaries.

CREATION OF THE OFFICE OF INDIAN AFFAIRS

The office of superintendent of Indian trade as has been pointed out, was in the War Department in 1806. The superintendent was responsible for the operation of the factory trading system. Thomas L. McKenney held this office from 1816 to the end of the factory system in 1822.

The abolition of the trading system removed even this effort to centralize the work with Indians within the War Department. March 11, 1824 Secretary of War John C. Calhoun created what he called the Bureau of Indian Affairs without authorization from the Congress. McKenney, formerly superintendent of Indian trade, was appointed to head the office, with two clerks assigned to him as assistants.

McKenney was instructed:

> . . . to take charge of the appropriations for annuities and current expenses, to examine and approve all vouchers for expenditures, to administer the fund for the civilization of the Indians, to decide on claims arising between Indians and whites

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[40] Harmon, *op. cit.*, pp. 169–170.

[41] *Ibid.*, p. 170.

under the intercourse acts, and to handle the ordinary Indian correspondence of the War Department.[42]

Only Secretary Calhoun seems to have called this newly created agency a Bureau of Indian Affairs. McKenney first designated it the "Indian Office" in his correspondence, and later uniformly used the "Office of Indian Affairs." He and the clerks assigned to him became in actual practice an Indian secretariat within the War Department, handling a large volume of correspondence and other detailed routine business that pertained to Indian matters.

It was apparent to McKenney that he had inherited all the routine work that related to Indian affairs but that the authority and responsibility was still in the Secretary of War. What was needed with the necessary Congressional action creating an Office of Indian Affairs, with the essential responsibility placed in a department head who would receive and act upon all matters pertaining to relations between the United States and the Indian tribes.[43]

EVOLUTION TOWARD AN INDIAN SERVICE

Thomas L. McKenney on March 31, 1826 drew up a bill that called for an Office of Indian Affairs created by the Congress, with a responsible head having authority and responsibility to deal with all matters relating to Indian affairs. This requested the appointment of a "General Superintendent of Indian Affairs," to head the above-mentioned office, and to whom would have been assigned all Indian relations that had rested with the Secretary of War. After commitment to the Committee of the Whole, the bill failed to receive further action during that Congress.

In 1829, at the request of the Secretary of War, Governor Cass and General Clark included McKenney's proposal in their plan to reorganize Indian affairs. The Senate Committee on Indian Affairs introduced the measure a third time in the 22nd Congress, and it passed both houses to become law on July 9, 1832. The bill gave the President authority to appoint a Commissioner of Indian Affairs to serve under the Secretary of War, and to have "the direction and management of all Indian affairs, and of all matters arising out of Indian relations." The Commissioner was to receive an annual salary of $3,000.[44]

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[42] Prucha, *op. cit.*, pp. 57–58.

[43] *Ibid.*, pp. 58–59.

With a Bureau or Office of Indian Affairs and a Commissioner to head that section within the War Department, it was now possible to work toward the development of more orderly methods of conducting Indian relations and to bring to a close what had been referred to as a period of confusion in matters that involved Indians.[45] That part of the act of July 9, 1832 authorizing the appointment of the Commissioner was later amended by the act of 1849 that transferred the Office of Indian Affairs to the Department of the Interior.

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[44] Prucha, *op. cit.*, pp. 58–60.

[45] *Federal Indian Law* (1958), p. 218.

CHAPTER THREE

TRIBAL REMOVAL AND CONCENTRATION WESTWARD

The exploration of the northern portion of the Louisiana Purchase by Lewis and Clark, the central by Pike and Wilkinson, and the southern by Hunter, Dunbar, and Freeman followed closely on the acquisition of the territory. A vast area was thus opened up that makers of Indian policy came to think of as a region the eastern tribes could be encouraged to occupy while they continued to learn the ways of their conquerors.

THE IMPACT OF THE LOUISIANA PURCHASE ON INDIAN AFFAIRS

The dimensions of the Indian program were increased when new tribes were brought under the protection of the United States after the Louisiana Purchase. The idea of the removal of eastern Indians from the settled areas to the new territory in the West apparently originated about 1803 when President Thomas Jefferson drafted a constitutional amendment that allowed the exchange of land the tribes held in the east for other lands west of the Mississippi. The amendment would have also allowed white settlers to exchange western lands for land east of the Mississippi.

Although Jefferson's proposed amendment was apparently never given serious consideration by the Congress the President was authorized "to stipulate with any Indian tribes owning lands on the east side of the Mississippi, and residing thereon, for an exchange of lands, the property of the United States, on the west side of the Mississippi, in case the said tribes shall remove and settle thereon." [1]

Before the end of Jefferson's administration, efforts were begun to persuade the southern tribes to trade eastern holdings for lands west of the Mississippi:

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[1] 2 Stat. L., 289.

> Despite the optimism of supporters of the civilization fund, an uncomfortable fact was becoming increasingly obvious: the contact of the Indians with white civilization had deleterious effects upon the Indians that far outweighed the benefits. The efforts at improvement were vitiated or overbalanced by the steady pressure of white vices, to which the Indians succumbed. Instead of prospering under white tutelage, the Indians were degenerating and disappearing.
>
> Although the agricultural and education program did not slacken, there gradually developed another program for the "preservation and civilization" of the aborigines. This was the policy of removal.
>
> It cannot be denied that the land greed of the whites forced the Indians westward and that behind the removal policy was the desire of eastern whites for Indian lands and the wish of eastern states to be disencumbered of the embarrassment of independent groups of aborigines within their boundaries . . But these selfish economic motives were not the only force behind the removal policy. That men as knowledgeable in Indian ways and as high minded as Thomas L. McKenney, Lewis Cass, and William Clark were long-time and ardent promoters of Indian removal [as was Thomas Jefferson] should give us pause in seeing only Jacksonian villainy behind the policy. The promoters of the program argued with great sincerity that only if the Indians were removed beyond contact with whites could the slow process of education, civilization, and Christianization take place. Insofar as removal was necessary to safeguard the Indian, to that extent the intercourse acts had failed [underlining mine].[2]

Various tribes occupied scattered areas in the New England States as well as Pennsylvania, New York, and the Northwest Territory at the time of the adoption of the Constitution. It was in the South, however, that the most compact body of land was held by Cherokee, Choctaw, Chickasaw and Creek tribes that included much of the present States of Tennessee, Alabama, Mississippi, and a good share of Georgia.

A few Choctaws went west in 1808 and a few Cherokees in 1809. Andrew Jackson, as Commissioner for the United States, met with the Cherokees in 1816 to discuss the exchange of eastern for western lands. Although influential Cherokees were "bitterly opposed" a treaty prepared by Jackson was negotiated in 1817. Further negotiations made full scale migrations unnecessary, however, until after Jackson became President. Both Monroe and Adams had followed the policy of encouraging voluntary emigration.

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[2] Prucha, *op. cit.*, pp. 224–225.

From the close of the War of 1812 until the 1840's, a period of about 30 years, the making of Indian treaties was largely concerned with the removal of eastern tribes from lands held in that area to the lands lying vacant further west. The treaties with the southern Indians mentioned above, later identified as the "Five Civilized Tribes," were the first and most significant.

At the time the Constitution was adopted Georgia and North Carolina continued to claim lands between their western boundaries and the Mississippi River. North Carolina agreed to cede her western lands to the United States in 1790 and Georgia in 1802, the latter State with the understanding that the United States should "at their own expense, extinguish, for the use of Georgia, as early as the same can be peaceably obtained, on reasonable terms," Indian title to that area included in the State boundaries.

It was apparent that the United States had an obligation to the State of Georgia, but the Cherokees had always held the territory in controversy, "they had an abiding attachment to their lands and were determined to hold them at all costs, no matter what the federal government might offer them as an inducement to move." [3]

In response to the censure of the Governor of Georgia for the "tardiness and weakness" of the Federal Government in extinguishing the claims of the Cherokee Indians, President Monroe sent a special message to the Congress March 30, 1824 on behalf of the program pursued by the United States. The President expressed his personal opinion that removal was the best course available to the Indians, but he would not allow Georgia to push him beyond the strict terms of the compact.

REMOVAL

Andrew Jackson was convinced by what had transpired in the intervening years that the Indians could not continue "as independent enclaves within the states." Georgia, with this knowledge, first passed a law in 1828 including Cherokee lands in certain counties of the State. June 1, 1830 another law was passed extending the laws of the State over the Indian lands.

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[3] *Ibid.* The chapter on "Civilization and Removal," pp. 213–249, is a scholarly examination of the subject that should be read in its entirety.

The Cherokees immediately appealed to the President and to the Congress. Jackson bluntly told them that they could expect no relief from the Federal Government. Through its President, the United States returned to a policy of right by conquest. It was held that peace was granted to the Cherokees in 1785 as a "mere grace of the conqueror." A conflict of opinions quickly arose between the missionary groups that worked with the southern Indians and the Government. Other church groups in the north and east took exception to the Government policy. The administration counteracted by enlisting the support of still other religious groups that favored removal.

Another argument that those looking for justification for forceful taking of Indian land turned to is that of the Swiss jurist Emmerich de Vattel. The Spanish Priest, Francisco de Vitoria, cited above, argued that the Indians held valid title to their land. Vattel's opinion was that title depended on the use made of the land:

> There is another celebrated question, to which the discovery of the new world has principally given rise. It is asked if a nation may lawfully take possession of a part of a vast country, in which there are found none but erratic nations, incapable by the smallness of their numbers, to people the whole? We have already observed in establishing the obligation to cultivate the earth, that these nations cannot exclusively appropriate for themselves more land than they have occasion for, and which they are unable to settle and cultivate. Their removing their habitations through these immense regions, cannot be taken for a true and legal possession; and the people of Europe, too closely pent up, finding land of which these nations are in no particular want, and of which they make no actual and constant use, may lawfully possess it, and establish colonies there. We have already said, that the earth belongs to the human race in general, and was designed to furnish it with subsistence: if each nation had resolved from the beginning to appropriate to itself a vast country, that the people might live only by hunting, fishing, and wild fruits, our globe would not be sufficient to maintain a tenth part of its present

> inhabitants. People have not then deviated from the views of nature in confining the Indians within narrow limits.[4]

Vattel wrote after Vitoria during the age of discovery. We may think of his opinion as a justification of the position most Europeans had in fact taken toward their right to occupy Indian lands discovered in the Americas, and holdings of native peoples elsewhere in the world.

President Jackson advised the Indians to either emigrate beyond the Mississippi or submit to the laws of the State of Georgia. He returned to the argument: "if the Indians remained in contact with the whites they would be degraded and destroyed." It seemed apparent to those favoring removal that the solution was to "set apart an ample district west of the Mississippi, to be guaranteed to the Indian tribes as long as they occupied it. There they could be taught the arts of civilization."[5]

A deluge of debate on the subject of removal both pro and con was loosed by the press. Much of this was ordered printed in the Congressional documents and may be examined in the serial set. By sheer volume of printed matter those against removal and for the position of the Cherokee Indians won the debate, but when the votes were counted in the Congress, the act of May 28, 1830 governing Indian removal passed by a small majority.

Jackson won the political battles but lost in the Supreme Court and before the judgment bar of history. Chief Justice Marshal upheld Vitoria's position that the Indian tribes are true possessors of the soil against that of Vattel. He pointed out that the official acts of the United States to regulate trade and intercourse with Indians, and the treaties we had made with them recognizing their rights, had obligated the United States to support the cause of the Cherokee Nation:

> All these acts, and especially that of 1802, which is still in force, manifestly consider the several Indian nations as distinct political communities, having territorial boundaries,

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[4] Emmerich de Vattel, *The Law of Nations; or Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns* (Book I, Chapter XVIII, paragraph 209, of edition published by Simeon Butler, Northampton, Mass., 1820), pp. 158–159.

[5] Prucha, *op. cit.*, p. 238.

> within which their authority is exclusive, which is not only acknowledged, but guaranteed by the United States.[6]

President Jackson, of course, refused to enforce Marshall's decision. He justified his position by a variety of arguments, but the net result in terms of the application of Indian policy is that the United States followed a coercive policy in its relations with Indians during this period that would have its effect on the application of Indian policy for the next hundred years.

This amounted to a reversal of administrative policy. Representatives of the United States had previously at least recognized that the cause of the Indian against the frontiersman was just, although they could not enforce the laws that had been passed to protect the Indians. Jackson's action, in failing to support the decision of the Supreme Court, became a precedent that told the frontiersman that his case would be heard in high places to the detriment of the Indian. It told the Indians that the forces arrayed against them were too powerful to be withstood, when the chips were down, and that he must eventually acquiesce or be destroyed, one way or another, in the face of the advancing settlements of the United States.

It was unfortunate that the immediate object of this change of policy had to be an Indian tribe that had accomplished as much as any other in the realization, by way of civilization and education, of the goals that past policymakers had set for the Indians.

The official Indian policy of the United States as reflected in the treaties, however, continued to uniformly guarantee Indian rights. "The tremendous weight of the argument put forth in the 1830's by the supporters of the Cherokees stirred the conscience of the nation." And as to the effect of this national sentiment: "What new authority, it gave to the traditional principles behind American Indian Policy cannot have been insignificant." [7]

The Indian intercourse acts and Supreme Court decisions continued to be supportive of traditional practices in Indian affairs. Morally, Jackson's political success had been a Pyrrhic victory.

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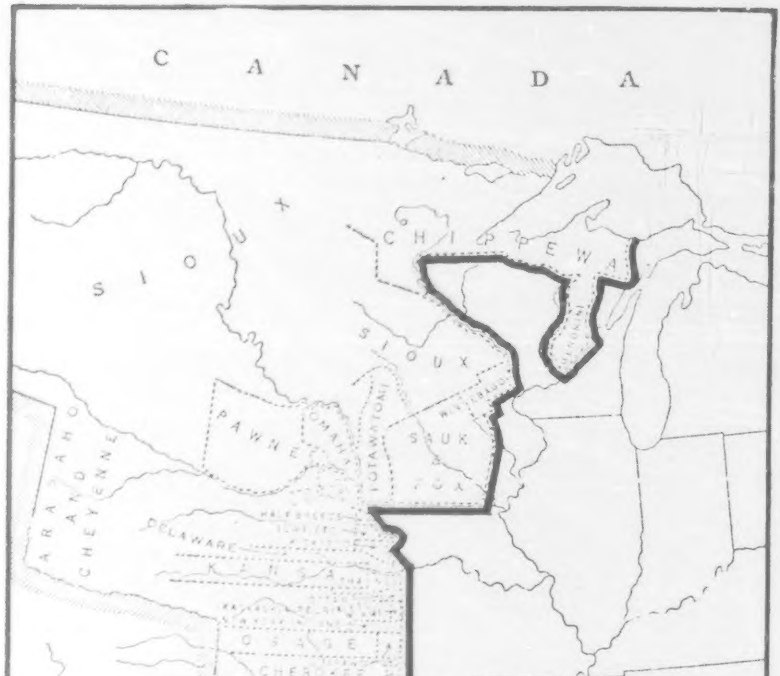
[6] See *Cherokee vs. Georgia*, 5 Pet. 1 (1831); and, *Worcester vs. Georgia*, 5 Pet. 515 (1832).

[7] Prucha, *op. cit.*, pp. 248-249.


CANADA
SIOUX
CHIPPEWA
SIOUX
MENOMINEE
WINNEBAGO
SAUK & FOX
POTAWATOMI
OMAHA
PAWNEE
ARAPAHO AND CHEYENNE
DELAWARE
KANSA
OSAGE
CHEROKEE
CREEK
CHICKASAW
CHOCTAW
TEXAS

THE INDIAN FRONTIER AS A RESULT OF REMOVAL ▬ 1825–41

THE INDIAN TRADE AND INTERCOURSE ACT OF JUNE 30, 1834

June 30, 1834, is a significant date in the history of Indian legislation, and of the creation of Indian policy. Two comprehensive statutes were then passed that "in large part, form the fabric of our law on Indian affairs to this date." One stands as the final act in a series of acts "to regulate trade and intercourse with the Indian tribes." The other is "an act to provide for the organization of the Department of Indian Affairs." The House Committee on Indian Affairs dealt with these two statutes in one report that "contains an illuminating analysis of the entire legislative situation with relation to Indian affairs." [8]

These measures are worthy of being read in their entirety for useful ideas in regard to Indian relations today. They incorporate provisions from earlier laws with amendments that broadly express the power the Constitution bestows on the Congress to deal with Indian tribes. They define Indian country, prescribe methods of making contracts with Indians, and empower the Commissioner to appoint traders and to regulate the kind, quantity and prices of trade goods to be sold to the Indians with whom they trade. They provide that interests in Indian lands, by lease or purchase, can be acquired only by treaty or other agreement formalized under the direction of duly constituted authorities as described therein. Penalties are provided for trespassers on Indian holdings.

One passage from the committee report seems particularly significant in the light of current efforts to involve the Indians more in the management of their own affairs:

> The education of the Indians is a subject of deep interest to them and to us. It is now proposed to allow them some direction in it, with the assent of the President, under the superintendence of the Governor, so far as their annuities are concerned; and that a preference should be given to educated youth, in all the employments of which they are capable as traders, interpreters, schoolmasters, farmers, mechanics, etc.; and that the course of their education should be so directed as to render them capable of those employments.[9]

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[8] *Federal Indian Law* (1958), pp. 103-110, gives a concise review and analysis of this comprehensive legislation, citing House Report 474, 23d Cong., 1st sess. (May 20, 1834).

[9] House Report cited above, p. 20.

Other provisions of these prohibit employees from having "any interest or concern in any trade with the Indians, except for, and on account of, the United States." These two acts made it possible to organize and provide for the orderly operation of a "Department of Indian Affairs" and to regulate the many faceted trade and intercourse with the Indians.

INDIAN AFFAIRS AND THE WESTERN TERRITORIES

In a report dated November 19, 1831, while he still directed Indian affairs under the War Department and before he became the first Commissioner on July 10, 1832, Elbert Herring mentioned the removal of the Indians from Georgia, Alabama, and Mississippi, then stated:

> The humane policy, exemplified in the system adopted by the government with respect to the Indian tribes residing within the limits of the United States, which is now in operation, is progressively developing its good effects; and, it is confidently trusted, will at no distant day, be crowned with complete success.[10]

At the same time this was written, other sincere men were denouncing Indian removal as the very antithesis of a humane policy. The denunciation has continued in the face of the fact that the Five Civilized Tribes sometimes prospered in Indian Territory:

> The suffering endured while removal was in progress; the disappointment and despair that saddened the lives of many of the Indians for years after their arrival in the area that became Indian Territory and still later the state of Oklahoma; the disastrous effect of the War between the States, which offered an opportunity for the rekindling of the smoldering fires of internal strife that had burned so briskly at times while they still lived in Georgia and adjacent states; and the extremely pitiable state in which tens of thousands of the descendants of the emigrants are living, a full century after the removal, combine to elicit the sympathy and arouse the indignation of anyone familiar with their history.[11]

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[10] Com. Ind. Aff., 1825–1837, Indian Office Library copy, p. 172.

[11] J. P. Kinney, *A Continent Lost—A Civilization Won* (Baltimore: John Hopkins Press, 1937), p. 80.

In retrospect, the existence of Indian tribes as distinct political communities in the area west of Arkansas and Missouri that was to become the State of Oklahoma would prove to be almost as difficult as it had been in the Southeastern States.

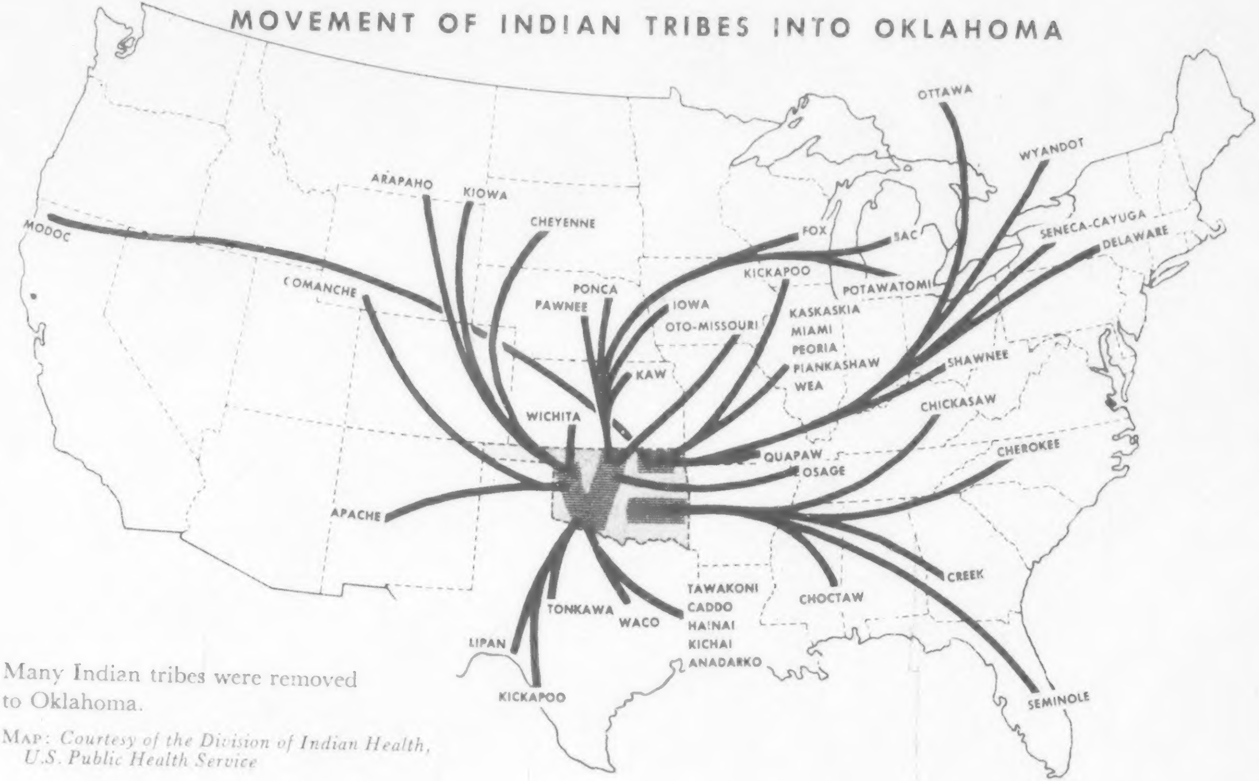
So long as the settlers moving westward could find ample fertile, accessible and unclaimed regions elsewhere, there was little pressure to open up the Indian Territory for settlement. As we review our history, however, and consider that removal was officially enunciated as Government policy in 1830, that Texas, California, and the Oregon country were being settled in the 1830's and 1840's, and that the Middle West was settled soon thereafter, we see how temporary this effort really was.

When settlers invaded the Plains States, the wars with the Sioux and other neighboring tribes began. The movement, first for wagon roads and then for a transcontinental railroad, followed the establishment of States and territories in the Far West and on the Pacific Coast. It was necessary to cross the lands guaranteed by treaties with the various tribes to secure these routes.

In 1845, the Republic of Texas was annexed to the United States; in 1846 the Oregon Country became part of the national domain; and in 1848 the entire Southwest was acquired as a result of the Mexican War and the Treaty of Guadalupe Hidalgo. In 1850, California became a State. In 1853, by the Gadsden Purchase, we rounded out the exterior boundaries of the territory to be contiguously occupied as a part of the United States.

Indians were encountered in the Southwest that had lived for over 200 years under the Spanish Indian program. The Indians of the Plains States, the Rocky Mountains, the Oregon Country, and the Spanish Southwest ranged in habits from the peaceful Pueblo Indians of New Mexico to the nomadic Apaches, the fierce Comanches, and the Blackfeet Indians who struck fear into the hearts of many a trapper and trader only a few years earlier.

Between 1829 and 1843 the liquidation of the remaining Indian holdings in the Old Northwest was largely accomplished. The mixed bands of Shawnee, Delaware, Wyandot, and others accepted new assignments of land in Indian territory west of Missouri. The Ojibway or Chippewa managed to retain limited territory on the south shore of Lake Superior. The Menominee were permanently assigned lands in Wisconsin.



MOVEMENT OF INDIAN TRIBES INTO OKLAHOMA

OTTAWA
WYANDOT
SENECA-CAYUGA
DELAWARE
MODOC
ARAPAHO
KIOWA
CHEYENNE
FOX
SAC
KICKAPOO
POTAWATOMI
COMANCHE
PONCA
PAWNEE
IOWA
OTO-MISSOURI
KASKASKIA
MIAMI
PEORIA
PIANKASHAW
WEA
SHAWNEE
KAW
CHICKASAW
WICHITA
CHEROKEE
QUAPAW
OSAGE
APACHE
CREEK
TAWAKONI
CADDO
HAINAI
KICHAI
ANADARKO
CHOCTAW
TONKAWA
WACO
LIPAN
KICKAPOO
SEMINOLE

Many Indian tribes were removed to Oklahoma.

MAP: *Courtesy of the Division of Indian Health, U.S. Public Health Service*

When Texas came into the Union, by agreement with the United States, its Indians were removed to Indian Territory. There had been no provision for extinguishing Indian title in Oregon Territory, and the first treaties with the tribes of that area were not made until after 1850. Although treaties were made with California Indian tribes they were not ratified by the Senate. Elsewhere in the West and Southwest, the earliest treaties tended to be largely for the purpose of mutual recognition.

INDIAN AFFAIRS AT MID-CENTURY

From the end of Van Buren's administration until the beginning of Grant's administration, a quarter of a century, "there was practically no contribution to the betterment of Indian relations on the part of either the executive or legislative branches of government."[12] Attempts to formally organize an Indian Territory failed. The act of March 3, 1849 created the Department of the Interior and the Bureau of Indian Affairs was transferred from the supervision of the Secretary of War to that of the Interior Secretary.

Between 1834 and mid-century the conduct of Indian affairs had already become largely a civilian operation, so even this transfer from military to civilian control had little noticeable effect. For several years after 1849, Congress debated back and forth with some fervor the advantages and disadvantages that would result if the Indian Bureau were transferred back to the War Department. Actually, Army officers continued to be employed as agents when it seemed desirable.

In his report for 1847, Commissioner William Medill of the Bureau of Indian Affairs expressed the need for statistical information to help determine the numbers and the nature of the various tribes. The statement of this need was repeated from time to time, and some steps were taken to satisfy it.

Medill was complimentary of the role that the various missionary organizations continued to play. He stated that they were the Department's "most efficient and faithful auxiliaries and laborers" and that their teachers and schools were significant assets to the accomplishment of the Indian program.

An evaluation of the success of the United States in Indian affairs from the first of the trade and intercourse acts to mid-19th century identifies many problems and results in little cause for feelings of satisfaction:

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[12] Schmeckebier, *op. cit.*, p. 42.

> Laws and proclamations had multiplied, drawn up in ever stricter fashion as they became more inclusive in the actions they prohibited. But had there been commensurate improvement in the situations which the laws had been designed to remedy? Whiskey flowed as freely in the 1830's as it had in 1800. The pressure of the encroaching whites had driven the Indians farther and farther west.
>
> Protection of the rights and persons of the Indians remained more an ideal than a reality . . . Weaknesses and inadequacies are easy to catalog. Harder to judge is the over-all effect of the intercourse acts in these early years. That they prevented much open conflict between the races and allowed the inevitable westward advance of white settlement to proceed with a certain orderliness is perhaps judgment enough.[13]

The Nation had never been able to achieve the position that seemed so apparently necessary to the Indians: the power of the President of the United States "must be as potent to control and restrain his white as his red children: and while it was their duty to acknowledge obedience, it was also their right to claim protection." [14] The Indian policies secured some of the desired results for the non-Indian population, but usually at the expense of the expressed desire to "civilize" and "assimilate" the Indian.

THE ADMINISTRATORS OF INDIAN AFFAIRS

The President was much more closely involved with Indian affairs in 1850, in a variety of ways, than he has been in recent decades. The treaties made with Indian tribes, if ratified by the Senate, required presidential proclamation. Many of the positions within the Indian service that are presently under Civil Service were, at that time, within the appointive powers of the executive.

The person next to the President in authority in Indian affairs after 1849 was the Secretary of the Interior. The Commissioner of Indian Affairs was next in the hierarchy, then the field superintendents and agents. Agents, missionaries, traders, and Indians in a particular jurisdiction usually wrote to a particular field superintendent for authorization to perform certain functions, but might also correspond directly with the Commissioner.

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[13] Prucha, *op. cit.*, pp. 275–277.

[14] An observation made during the negotiation of a treaty with the Ute Indians. James Warren Covington, "Federal Relations with the Colorado Utes, 1861–1865," *Colorado Magazine*, October 1951, pp. 257–266.

In 1849, there were only five superintendents for the United States. Two of these doubled as agents, and two others, as Governors of Minnesota and Oregon territories, served as superintendents ex-officio. There was also a shortage of agents. Although the law of June 30, 1834 limited the number of agents to 12, in 1849 only nine were actually employed.

Superintendents were added during the early 1850's to serve the territories of Washington, Utah, and New Mexico, as well as the State of California. Authorization was also given for additional agents and subagents as required to round out the organization of the new superintendencies. Within a territory the Governor often served as superintendent of Indian affairs ex-officio. He was responsible for general supervision, and the agents serving under him handled the detailed assignments such as the distribution of annuities, the prohibition of trade in intoxicating beverages, the licensing of traders, supervision of Indian education, and promotion of missionary endeavors.

Most Indian agents were average men, some were excellent, some also were cheats that could take advantage of the Indians they had been assigned to serve in various ways. Although laws were written to protect the Indians and restrict the activities of the agents, much depended on the character of the individual. Assignments in remote areas of the Far West where there was little regular contact with other Government officials, and where the Indians did not understand the laws that governed the agent's activities, left ample opportunity for those who sought a dishonest income.

INHERITANCE FROM SPAIN AND MEXICO

Some special conditions existed in relation to the Indians of the Southwest that came into the United States under the Treaty of Guadalupe Hidalgo. This included particularly Indians occupying territories within the present States of California, Arizona, and New Mexico where the Spanish and Mexican legal systems had applied. Spain had distinguished between the Pueblo Indians who lived in established villages, practiced agriculture, and irrigated their lands, and the nomadic Indians such as the Navaho and Apache.

Under Spain the lands of the sedentary Indians were protected from trespass. Grants were made that defined and established the boundaries of the individual villages and accompanying lands. The individual Indians were converted to Christianity, and thus became subjects of the Crown and heirs to the privileges both of church and state. Attempts were also made to convert the surrounding nomads and interest them in living in established villages. Countless treaties were made with leaders of various bands, only to be broken as the need to raid the established Pueblo villages arose. For the nomads surrounding the villages, raiding had become part of their way of life.

Under Mexico, the Indians became citizens along with other inhabitants. By the Treaty of Guadalupe Hidalgo, the United States purportedly recognized that citizenship. If they were citizens, some argued, they were not entitled to the protection of the United States as Indians. Often, in actual practice, they were denied the rights of citizenship and also failed to receive the special protection of the United States they were entitled to as Indians.

By the acts of July 22, 1854 and of December 22, 1858, the Congress provided for the appointment of a surveyor general for New Mexico, and then acted favorably upon his report confirming the land claims of the Pueblo Indians.[15]

Still, for a variety of reasons, "the Pueblos were not considered Indian tribes within the meaning of existing statutes."

> During the 23 years that elapsed between the Treaty of Guadalupe Hidalgo and the act of March 3, 1871, which terminated the practice of making treaties with Indian tribes, no treaty was ever negotiated with any of the Pueblos. The reasons for distinguishing between the Pueblo Indians and other aborigines are set forth at length by the Supreme Court of New Mexico Territory, in the case of *United States* v. *Lucero*, decided in January, 1869. That case involved an attempt by the United States to invoke section 11 of the Indian Intercourse Act of June 30, 1834, which made unauthorized settlement of tribal lands a Federal offense, as extended by section 7 of the Appropriation Act of February 27, 1851, "over the Indian tribes in the Territories of New Mexico and Utah." [16]

The Supreme Court upheld the *Lucero* decision in *United*

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[15] *Federal Indian Law* (1958), "Pueblos of New Mexico," pp. 889–927.

[16] *Ibid.*, p. 897.

States vs. *Joseph* in 1876, then reversed its own decision in *United States* vs. *Sandoval* in 1913, thus recognizing, after the fact, that the United States had the same obligation to the Pueblo Indians of New Mexico as to other Indians.[17]

The discovery of gold in California created a particularly difficult situation in relation to the recognition of the rights of the California Indians. Their problems began after the Mexican revolution when the missions to which they had been attached were secularized. This made thousands of Indians that had come to depend on missions for a way of life free to settle along the countryside. This condition still existed when California became part of the United States, and influenced Indian relations considerably for an extended period.

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[17] *Ibid.*, pp. 897–905.

CHAPTER FOUR

RESERVATIONS FOR INDIAN TRIBES

By 1850 the tier of States extending the eastern area of continuous settlement ever westward, with the date of establishment as States, included Louisiana (1812), Missouri (1821), Arkansas (1836), Iowa (1846), and Wisconsin (1848). Minnesota Territory was added in 1849. The remainder of the Louisiana Purchase was then unorganized Indian Territory.

The States, and parts of States, that would eventually be established from the 1,202,286 square miles[1] added to the national domain from 1845 to 1848, were Washington, Oregon, Idaho, western Montana, southwestern Wyoming, California, Nevada, Utah, western Colorado, Arizona, New Mexico, Texas, the panhandle of Oklahoma, and the southwestern corner of Kansas.

The approximately 200,000 Indians living within the territory acquired during these four years possibly doubled the native population within what was then the United States.[2] This added considerably to the weight of the Indian program, and resulted in some important changes in policy:

> The old "permanent Indian frontier" broke down before the westward march of our population. The Indian Country was organized as the territories of Kansas and Nebraska. With their organization the old policy of maintaining a large, unorganized, and "permanent" Indian Country came to an end. But a new policy was at hand. The system of establishing reservations, of relatively small geographical extent, in the midst of the white man's country, had been tried in California. From there it spread ultimately over the entire country.[3]

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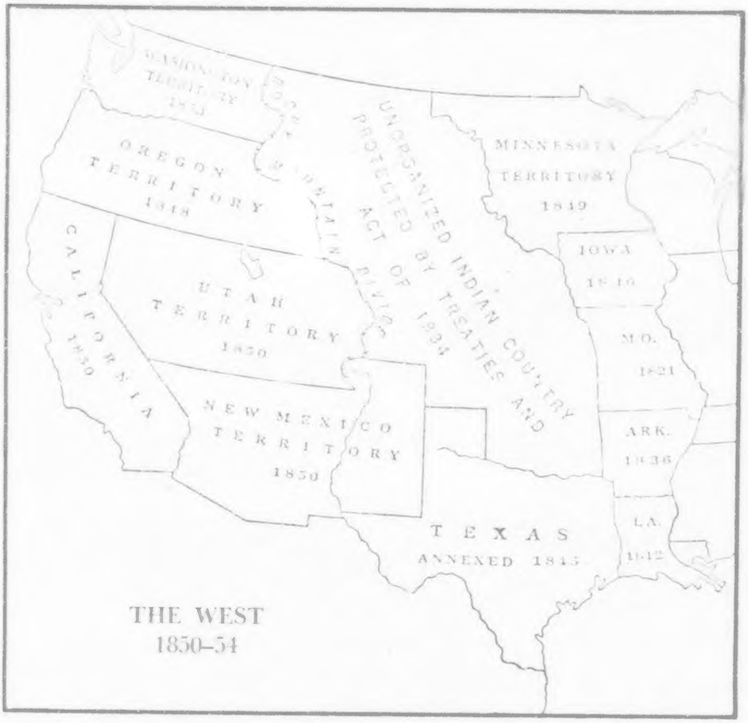
[1] Alban W. Hoopes, *Indian Affairs and Their Administration; with special reference to the Far West, 1849–1860* (Philadelphia: University of Pennsylvania Press, 1932), p. 1.

[2] *Ibid.*, "Some Effects of United States Expansion in the Far West upon the Indian Problem," Chapter I, pp. 1–14.

[3] *Ibid.*, p. vii.


WASHINGTON TERRITORY 1853
ROCKY MOUNTAIN DIVIDE
OREGON TERRITORY 1848
UNORGANIZED INDIAN COUNTRY PROTECTED BY TREATIES AND ACT OF 1834
MINNESOTA TERRITORY 1849
IOWA 1846
MO. 1821
ARK. 1836
LA. 1812
CALIFORNIA 1850
UTAH TERRITORY 1850
NEW MEXICO TERRITORY 1850
TEXAS ANNEXED 1845

THE WEST
1850–54

In the colonies that became the original 13 States of the United States, it had at first been assumed that the Indians would gradually be absorbed into the general population. When this did not occur, lands were set aside within the various colonies for the exclusive use of the eastern tribes.

The idea of a separate "Indian Country" was first promulgated after the French and Indian War. Removal to the western lands was suggested by Thomas Jefferson in the first decade of the 19th century, and became policy after 1830. The new reservation policy after 1850 would again see the Indians placed on isolated lands entirely surrounded by other lands controlled by private landholders, by the States and territories, or by the United States. Within these reservations, legally, the tribes continued to be self-governing bodies.

The leap-frog settlement of the Far West had left isolated towns with their surrounding rural areas at great distances from the protection of the United States. More men were requested for the Army. Whereas, in the first decade of the 19th century the Indian frontier that required protection from troops extended less than a thousand miles, without long communication lines that required regular defense, by the early 1850's the frontier to be guarded had increased to 3,000 miles.

In 1845 the most remote Army posts, such as Forts Snelling, Leavenworth, Wilkins, Gibson, and Smith, could all be reached by steamboat. Fort Scott, the most remote, required an additional 90 miles by wagon. Of the new posts established by 1851, Fort Laramie was 637 miles by wagon from Fort Leavenworth; Fort Union 728 miles; Santa Fe 821 miles; Socorro 981 miles; and San Juan 1,048 miles.

In such remote places as the territories of Utah and New Mexico, the Indians were able to react with a show of force to pressures from settlers on the exposed portions of the frontier, then disappear into the surrounding desert areas before word could be carried to an isolated military post and soldiers be assembled to go in pursuit. By acquiring new territory we had greatly expanded the frontier and enlarged the Indian population within our exterior borders, and thereby inherited a variety of "chronic Indian disturbances." [4]

DEVELOPMENT OF THE RESERVATION SYSTEM

The first Indian policy to be applied in California, under the United States Army, included three main features: to maintain peace, to distribute presents, and to try to reclaim the former mission Indians. These were to have been used as a barrier between the frontier communities and the less peaceful Indians. The use of John A. Sutter and M. G. Vallejo as sub-agents capitalized on their past experience with Indians.

The civilian experience with Indian affairs, after the discovery of gold in California, proved to be less than illustrious. It was a definite part of the recommendations of the appointed California Indian commissioners to concentrate the Indians on reservations where they could be taught "the arts and habits of civilization," but the Congress failed to support these and other recommendations. Although we look to California for the beginnings of the experimentation with reservation policy at mid-century, actually it was not at first successful there. Treaties were made in the early 1850's, and some reservations were established, but the Congress refused to ratify the treaties, and thereby nullified the actions of the agents.

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[4] *Ibid.*, pp. 11-14.

In the mid-1850's, however, reservations were successfully established, and from this early experiment in California the program was extended to other areas west of the Mississippi River. Previously whites had tended to live primarily in the established States and territories in the east, the Indians, predominantly in the unorganized Indian country to the west. In the newly acquired California, New Mexico, and Arizona the Indians and whites were already intermixed. Thus, Indian reservations entirely surrounded by non-Indians resulted. As the westward movement eventually carried whites into all regions of the United States, whites and Indians also became intermixed in these areas, and the reservation system became the accepted policy to satisfactorily meet the immediate problem. Thus the removal of Indians from inhabited areas and their concentration in an "Indian Country" gradually gave way to their placement on reserved "islands" of land usually within the larger areas they once possessed.

By the 1850's it still seemed obvious to observers "that the only practical and humane answer to the Indian problem was to assimilate the Indians into Anglo-American culture." The alternatives, as these observers viewed them, were both cruel and undesirable: "either death or parasitical existence upon a reservation."[5]

> Administration of Indian affairs sought to deal with the problem within the old legislative framework. Provision in treaties for teachers, farmers, blacksmiths, and carpenters who were to educate the natives became common during the fifties and sixties. Agency posts were established within fixed reserves for the accommodation of the agents and their employees, who were made responsible for both the discipline and the instruction of the Indians.
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> Commissioner William P. Dole thought this procedure was correct in theory but admitted that from the moment reservations were surrounded by white settlers there were glaring weaknesses in application. He expressed regret in 1862 that

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[5] Henry E. Fritz, *The Movement for Indian Assimilation, 1860-1890* (Philadelphia: University of Pennsylvania Press, 1963), p. 19.

> the comparatively small tracts of land which had been set aside for the original inhabitants should have become objects of the white man's cupidity. Pioneers regarded Indians with contempt and subjected them to "wrongs, insults, and petty annoyances," which sometimes stirred them to retaliate. Justice was usually unobtainable because, to begin with, rights by treaty or under federal law were wholly unintelligible to a vast majority of the Indian population. Conversely, Indian crimes against members of the white race were met with swift punishment, and whole tribes suffered because of individual acts.[6]

From 1853 to 1856, 52 treaties were negotiated, more than in any other like period. Some 174,000,000 acres of land were acquired from the tribes by the United States as a result of these treaties. The jurisdiction of the Office of Indian Affairs and its agents was extended over additional areas comprising from 4 to 6,000 square miles of territory. Within this new territory were tribes about which little had previously been known.

During the mid-1850's the agent on the Upper Platte made an interesting if somewhat equivocal report on the nature of the Indian and the resulting relations with the relentless white invaders of his territory:

> . . . There is not to be found among any people a more cheerful, contented and kindly disposed being than the Indian, when he is treated with kindness and humanity. His friendships are strong and lasting, and his love for and attachment to his children, kindred and tribe, have a depth and intensity which place him on an equality with the civilized race. His love and veneration for the whites amount to adoration, which is only changed to hatred and revenge by oppression, cruelties and deep wrongs and injuries inflicted upon the poor Indian, by the white man, without cause or reason. By his education on the war path, which leads to honor, fame and distinction, the Indian is a relentless, a terrible enemy; he spares neither age nor sex, nor condition, but slaughters everyone that falls in his path indiscriminately. He neither knows nor heeds the laws of modern warfare, as practiced and observed by an enlightened civilization. As a consequence, the first yell of the

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[6] *Ibid.*, pp. 19-20.

war whoop has scarcely died away in its distinct echoes before a war of extermination is begun and waged against the poor Indian, and the innocent and the guilty alike perish, and their bones are left to bleach on their own happy hunting grounds. This is but a faint picture of Indian wars that have waged for short periods in every State and Territory of the Union, and which will burst forth constantly, until the power of the government is exerted to remove lawless and desperate whites from the Indian country, and change the habits of the Indian from a roving and hunter life to one of agriculture and fixed habitations.[7]

EXPERIMENTS WITH ALLOTMENTS TO INDIVIDUAL INDIANS

In the decades prior to the promulgation of the allotment policy in 1887, there was considerable experimentation in the various treaties with the individualization of landholding by Indians An example may be seen in the five-point policy outlined in 1859 by Superintendent Edward R. Geary in his program for the reservation Indians within the Oregon and Washington superintendency:

> 1. Land should be assigned to individuals, so that each Indian could have a fixed home, and an individual right in the soil.
>
> 2. Indians should be compelled to perform regular labor for their own support.
>
> 3. The agent should be permitted to find homes in suitable white families for neglected Indian orphans.
>
> 4. Industrial boarding schools should be established, "where habits of cleanliness, punctuality, and order should be carefully cutivated."
>
> 5. Only men "of pure morals and correct deportment" should be employed on reservations.[8]

J. P. Kinney's chapter on "Experimentation With an Allotment Policy, 1833–1891," gives many examples of the pre-1887 assignment of lands to Indians in severalty.[9]

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[7] Schmeckebier, *op. cit.*, pp. 45–46.

[8] Hoopes, *op. cit.*, p. 129.

[9] Kinney, *op. cit.*, pp. 103–162.

REFORM MOVEMENTS

During the 1850's and 1860's the great majority of the people of the United States were obviously too busy with their own particular concerns to worry much about what happened to Indian tribes. "The East was indifferent to the Indian. The West, as a rule, was openly hostile." [10]

There were a handful of religious and secular leaders, however, such as Father Pierre Jean De Smet, John Beeson, Bishop Henry B. Whipple, and Samuel F. Tappan who led a fight both in the Congress and in the national press to bring about reform in Indian policy.[11] Such men secured promises from Abraham Lincoln and other leaders in Government that, after the Civil War, attention would be given to the problem:

> On March 3, 1865, Congress passed a resolution (13 Stat. L., 572) for a joint committee to inquire into the condition of the Indian tribes and their treatment by the civil and military authorities. This commission took a mass of testimony, and in 1867 reported in part as follows:
>
> *First.* The Indians everywhere, with the exception of the tribes within the Indian Territory, are rapidly decreasing in numbers from various causes: By disease; by intemperance, by wars, among themselves and with the whites; by the steady and resistless emigration of white men in the territories of the west, which, confining the Indians to still narrower limits, destroys that game which, in their normal state, constitutes their principal means of subsistence; and by the irrepressible conflict between a superior and an inferior race when brought in presence of each other . . .
>
> *Second.* The committee are of opinion that in a large majority of cases Indian wars are to be traced to the aggressions of lawless white men, always to be found upon the frontier, or boundary line between savage and civilized life. Such is the statement of the most experienced officers of the army, and of all of those who have been long conversant with Indian affairs.
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> *Third.* Another potent cause of their decay is to be found in the loss of their hunting grounds, and in the destruction of that game upon which the Indian subsists . . .

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[10] Schmeckebier, *op. cit.*, p. 48.

[11] *Ibid.*, pp. 46–52; and Fritz, *op. cit.*, "Early Reformers and Their Efforts," pp. 34–55.

> *Fourth.* The question whether the Indian Bureau should be placed under the War Department or retained in the Department of the Interior is one of considerable importance, and both sides have very warm advocates . . .
>
> While it is true many agents, teachers, and employees of the government are inefficient, faithless, and even guilty of peculations and fraudulent practices upon the government and upon the Indians, it is equally true that military posts among the Indians have frequently become centers of demoralization and destruction to the Indian tribes, while the blunders and want of discretion of inexperienced officers in command have brought on long and expensive wars, the cost of which, being included in the expenditures of the army, are never seen and realized by the people of the country.
>
> *Fifth.* In our Indian system, beyond all doubt, there are evils, growing out of the nature of the case itself, which can never be remedied until the Indian race is civilized or shall entirely disappear.[12]

The distrust of the Congress in the administration of Indian affairs is reflected by the authorization given to the President by the act of April 10, 1869 (16 Stat. L., 40) "to organize a board of Commissioners, to consist of not more than ten persons, to be selected by him from men eminent for their intelligence and philanthropy, to serve without pecuniary compensation, who may, under his direction, exercise joint control with the Secretary of the Interior over the disbursement of the appropriations made by this act." By Executive Order of June 3, 1869 the Board of Indian Commissioners was organized as authorized, and continued in existence until eliminated by an Executive Order in 1933.[13]

THE INDIAN PEACE COMMISSION

With the Civil War absorbing most of the attention of the Armed Forces that might otherwise have been at least partially devoted to maintaining order in relations with the Indians, in the Plains area and elsewhere hostile bands created disturbances, often after some provocation on the part of non-Indians. The end of the war did not diminish the difficulties of Indian administration.

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[12] Schmeckebier, *op. cit.*, pp. 50–52.

[13] *Ibid.*, pp. 56–57.

By 1867 skirmishes with Indians spread generally throughout the Plains region. The construction of the railroads, and the continually increasing westward movement of settlers, brought a further reduction of the hunting grounds that remained. There seemed to be a lack of ability to devise a mutually acceptable plan to obtain peace through the established channels of Government.

June 20, 1867, the Congress created a special commission to determine the reasons for the hostile acts, and to make treaties, under the direction of the President, that would remove the causes for complaint. At the same time the commission was to be certain of the safety of persons and of property along the railroad routes then under construction, and along other routes of travel to the western territories. Their findings and recommendations were to "insure civilization for the Indians and peace and safety for the whites."

The commission did succeed in bringing about a peaceful settlement which resulted in greater safety for persons moving westward. The recommendations for the civilization of the Indians have been summarized as follows:

1. That the laws be thoroughly revised
2. That the supervision of Indian affairs be not turned over to the War Department
3. That all superintendents and agents be removed and that the competent and faithful be reappointed
4. That the Office of Indian Affairs be made an independent establishment
5. That governors of territories be divested of their duties as *ex officio* superintendents of Indian affairs
6. That states and territories be forbidden to call out troops to wage war against Indians
7. That the laws governing trade be revised
8. That adequate provision be made for removing trespassers on Indian lands
9. That a treaty be made with the Navajo
10. That the President appoint inspectors, who should report to him
11. That a commission be appointed to treat with the Sioux[14]

The treaties negotiated by the Indian Peace Commission were ratified by the Senate but were not acceptable to the House of Representatives, because that body was not given an opportunity to express its views until the appropriation bills were submitted sometime later. It was the negative reaction of the House to this process in reference to treaties with Indians, and to the administration of Indian affairs generally, that brought an end to such treaty making in 1871.

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[14] Schmeckebier, *op. cit.*, p. 54.

At the suggestion of the Peace Commission of 1867, to clear Kansas and Nebraska where the frontier population pressure was greatest, the Sioux, Crow, and some other northern Plains Indians were concentrated north of Nebraska and west of the Missouri River. The southern Plains tribes such as the Arapaho, Cheyenne, Comanche and Kiowa were settled in the Western section of the Indian Territory.

By the treaties of Fort Laramie and Medicine Lodge, these tribes were not only gathered on reservations, but the individual Indians were eventually to receive a separate land allotment. The Government agreed to teach them agriculture, furnish implements and other material necessities that would help the Indians acquire "self-sustaining habits." [15]

The report of the Peace Commission made a good background for President Grant's so-called "peace policy" presented in his first annual message to the Congress, December 1869. The humanitarians had, on the surface, won their encounter with General Sherman and others who wanted to bring about acculturation "at the point of the bayonet. Because the Indians must be forced to work, this military group held that they should be managed by those best qualified to use force." [16]

THE SO-CALLED PEACE POLICY

When Ulysses S. Grant became President in 1869, he attempted to achieve some of the reforms recommended during the previous decades:

> . . . he promptly adopted a new policy as regards the appointing of Indian agents by delegating their nomination to the several religious organizations interested in mission work among the Indians. This was a rather curious acknowledgement

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[15] Fritz, *op. cit.*, pp. 63-64.

[16] *Ibid.*, p. 71.

> of the power of the politicians in controlling the appointments of the President. As the law required Indian agents to be confirmed by the Senate, the President evidently felt that he could not secure the confirmation of men selected for other than political reasons unless there was some well-defined organization that Senators would fear to offend. In the early days of the administration the Society of Friends selected the agents in Nebraska, Kansas and Indian Territory.[17]

What the religious and humanitarian groups had succeeded in securing from President Grant was the opportunity to conduct an experiment. Although the Society of Friends and other churches were invited to submit lists of persons who would be suitable for selection as agents, actually Grant at first filled most of the posts with military officers. On July 15, 1870, however, the Congress passed a bill forbidding military personnel to hold civil office. In reaction to this, although under great pressure to make political appointments, with the support of the Board of Indian Commissioners President Grant decided to further extend appointments to individuals recommended by religious bodies.

SOLDIERS TO KEEP INDIANS ON RESERVATIONS

The military were still responsible for maintaining order and for protecting inhabitants and communications lines on the frontier. In practice, a kind of understanding between the military and the civilian agents resulted:

> Indians who did not go willingly to the reservations would be either driven there by force or exterminated in the process. Once on the reservation, the Christian agents and teachers could help them assimilate the white man's culture.
>
> * * * * * * *
>
> Because Western public opinion was opposed to constructive Indian legislation, to allow the military and the churches to proceed according to their respective ideas, one outside and the other within the reservation, was the best that could be done.[18]

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[17] Schmeckebier, *op. cit.*, pp. 54-55.

[18] *Ibid.*, pp. 81, 82.

The Sioux Indians at a treaty signing with William T. Sherman at Fort Laramie, Wyo. Photographed by Alexander Gardner, 1868.

(Photo: U.S. Signal Corps, War Department.)

Council of Sioux chiefs and leaders that settled the Indian wars, Pine Ridge, S. Dak. Photograph by John C. H. Grabill, 1891.

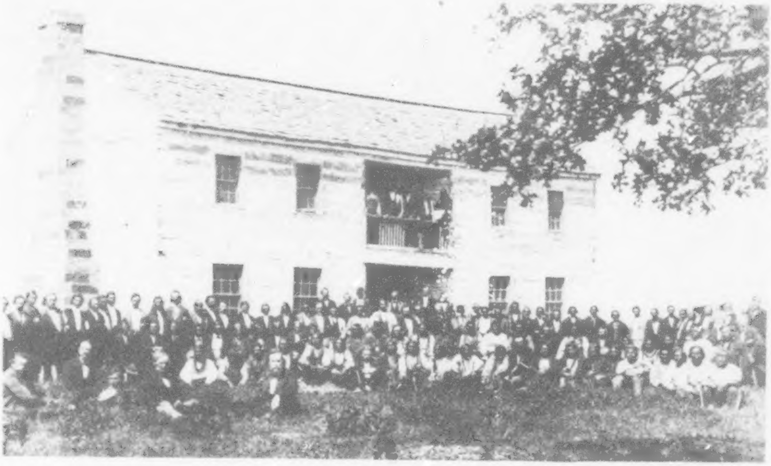
(Photo U.S. Signal Corps, War Department.)

Reenactment of the signing of the treaty at Fort Bridger, Wind River Reservation, Fort Washakie, Wyo.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

Large delegation with several agents or other officials on the White House grounds. Mathew B. Brady Collection photographs, before 1877.

(Photo: U.S. Signal Corps, War Department.)



Delegates from 34 tribes in front of Creek Council House, Indian Territory. Photograph, ca. 1880.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

During the period when the Government was attempting to apply this dual policy settlers and adventurers of various kinds continued their pressure on the areas occupied by the Indians, even entering the established reservations. The Indians protested, but their protests failed to check the flow of non-Indians who seemed intent on "winning the West" from its native occupants. In response to these pressures, dissatisfied Indian leaders attracted bands of followers that left the reservations and tried to solve their problems by the only means that seemed to remain to them, the use of force. The Indians always lost eventually as a result of these encounters, for the numbers arrayed against them proved insurmountable.

The goals of the Indian and the westward moving non-Indian had been largely at cross-purpose since mid-century. The Indians resented, and actively opposed when occasion permitted, the crossing of their hunting lands by the migrant moving West. The "westerners" believed that "manifest destiny" foresaw the eventual occupance of the entire western territory by farmer, cattleman, tradesman, and industrialist citizens of the United States.

Our Government representatives working with the Indians spoke of "vicious and unscrupulous whites" who defrauded and robbed the Indians, and also of the warlike disposition, barbarous acts, and wandering habits of some Indian groups. The role of the Government agent was to achieve worthwhile purpose in their relations with the Indians in spite of the pronounced differences that existed between Indian and non-Indian.

EXPERIMENTATION WITH INDIAN POLICY

For a decade after the inauguration of the dual policy outlined above, with the civilian agents being concerned with "civilizing" the Indians on the reservation, and the Army harrying those that resisted being confined within reservation boundaries, Commissioners expressed their concern with problems of policy and administration:

> Should treatymaking be abandoned? What was the proper role of the military? Should the Bureau of Indian Affairs be transferred back to the War Department? How should the Indian Service be re-organized so as to overcome charges of dishonesty and inefficiency? What was the best technique for individualizing and controlling the Indian? What were the present rights and future prospects of the Indian? [19]

Treatymaking had been abandoned by the act of March 3, 1871, however, agreements continued to be made subject to the approval of both the Senate and the House of Representatives before they became law. Commissioner Edward P. Smith urged in 1873 that even this kind of agreement cease:

> We have in theory over sixty-five independent nations within our borders, with whom we have entered into treaty relations as being sovereign peoples; and at the same time the white agent is sent to control and supervise these foreign powers, and care for them as wards of the Government. This double condition of sovereignty and wardship involves increasing difficulties and absurdities, as the traditional chieftain, losing his hold upon his tribe, ceases to be distinguished for anything except for the lion's share of goods and moneys which the Government endeavors to send, through him to his nominal subjects, and as the necessities of the Indians, pressed on every side by civilization, require more help and greater discrimination in the manner of distributing the tribal funds. So far, and as rapidly as possible, all recognition of Indians in any other relation

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[19] *Federal Indian Law* (1958), p. 235.

> than strictly as subjects of the Government should cease. To provide for this, radical legislation will be required.[20]

Opinions on the use of the military in Indian affairs continued to vary and to fluctuate from season to season. The new system of choosing agents upon the recommendation of the various religious bodies was reportedly working well for a few years after its inauguration, but it was gradually abandoned and completely discontinued by the early 1880's. Although opinions differed on the exact techniques to be followed in individualizing relations with the Indians, there came to be general unanimity of opinion that the allotment of land in severalty was one of the basic methods that should be employed.

No one particularly liked the "feeding" policy that had seemed necessary in the late 1860's in order to control the Plains Indians, but it was considered proper to support the hostile Indians in idleness in order to keep them peaceful, since the way of life they knew was no longer possible. Commissioners were not unaware of the apparent inconsistency of expending Government funds on the warlike and largely ignoring the peaceful groups.[21]

In relation to the present rights and future prospects of the Indians, Commissioner John Q. Smith stated in 1876:

> No new hunting grounds remain, and the civilization or the utter destruction of the Indians is inevitable. The next twenty-five years are to determine the fate of a race. If they cannot be taught, and taught very soon, to accept the necessities of their situation and begin in earnest to provide for their own wants by labor in civilized pursuits, they are destined to speedy extinction.[22]

By way of recommendations for policy in the administration of Indian affairs Commissioner Ezra Hayt itemized seven suggestions in 1877:

> (1) A code of laws for reservations and means for dispensing justice; (2) Indian police under white officers; (3) the promotion of agriculture and the division of land ". . . into farms of convenient size, the title to which shall be vested in individuals and inalienable for 20 years . . ."; (4) the establishment of a compulsory common school system, including indus-

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[20] See last half of p. 236, *Federal Indian Law* (1958) and ff.

[21] *Ibid.*, p. 239.

[22] *Ibid.*, pp. 240–241.

trial schools; (5) free access to Indians of missionaries; (6) insistence on labor in return for food and clothing; and (7) a steady concentration of the smaller bands on larger reservations.[23]

Securing and retaining properly trained personnel that could adequately perform their duties on behalf of their Indian patrons was a problem of the last century as well as the present. The desired goal has always been that the Bureau be allowed to pay adequate salaries to obtain the services of first class employees:

> It is not enough that a man is honest; he must, in addition to this, be capable. He must be up to standard physically as well as morally and mentally. Men of this class are comparatively scarce, and as a rule cannot be had unless the compensation is equal to the service required. Low-priced men are not always the cheapest. A bad article is dear at any price. Paying a man as Indian agent $1,200 or $1,500 and expecting him to perform $3,000 or $4,000 worth of labor, is not economy, and in a large number of cases has proven to be the worst kind of extravagance.[24]

THE COMPLETION OF THE RAILROAD AND THE END OF THE BUFFALO COUNTRY

When the Nation was welded together by the completion of the transcontinental railroad in 1869, and as spurs were extended from the main line into what had previously been remote areas, the long communication lines that had plagued the Army's attempts to control troublesome Indian bands became less of a problem. The Indians were soon virtually surrounded by their conquerors and newly appointed rulers. The old way under Indian leadership was gradually disappearing. The Indian agent was the new taskmaster bringing a multitude of new programs foreign to Indian ideas of the proper role of man in his society.

Somewhat related to the extension of the railroad was the final disappearance of the buffalo herds that had been the mainstay of the life of the Plains Indian. The buffalo furnished meat for the railroad builders, there was a market for the buffalo hides, eastern hunters and sportsmen from Europe had a drive to kill one of

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[23] *Ibid.*, p. 242.

[24] *Ibid.*, pp. 242–243.

When the buffalo was gone part of the culture of the Plains Indians—although relatively young and still adapting to change—went with it.

(Photo: National Park Service, U.S. Department of the Interior.)

Piles of buffalo hide that will soon be on their way to market.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

these great animals before they became extinct; all of this resulted in needless slaughter that ended the balance the Indian had maintained with nature by taking only what he needed for food, clothing, and shelter.

Indian leaders could see that further struggle was useless. Their economic base gradually disappeared. There was no longer a source of power adequate to continue a successful resistance. The tribe and its leaders had lost their political autonomy. Unable to maintain their own government, they became communities administered from Washington. The administrative structure was the Bureau of Indian Affairs. The local representative was the agent or superintendent given the administrative responsibility to look after the welfare of the Indians in relations with non-Indians, to maintain the resources of the reservation, and to encourage "civilizing" influences.

THE BEGINNINGS OF AN EDUCATIONAL PROGRAM

During the so-called reservation period, and before the allotment policy went into effect in 1887, there was a serious attempt made to improve the educational program made available to the Indians by the Federal Government. Although the idea of education had long been a part of the Government's general program for Indians, in actual practice the educational process had been left largely to the churches that operated missions among the Indians, and that sought in a variety of ways to encourage pursuits that would lead the Indians to adopt habits their mentors considered more civilized.

In 1870, $140,000 was available for education and other purposes. By 1887 the figure for general educational purposes had been increased to $1,226,415. In 1879 an average attendance of 4,488 Indian children was reported for Federal institutions. By 1887 there was a reported enrollment of 14,333, with an average attendance of 10,520 in 227 schools. One hundred sixty-three of these schools were then operated by the Indian Service. Sixty-four were operated by private agencies, usually missionary societies, under Government contract.[25]

After an experiment with several young Indians that had been placed in Hampton Institute in Virginia, the Carlisle Indian School

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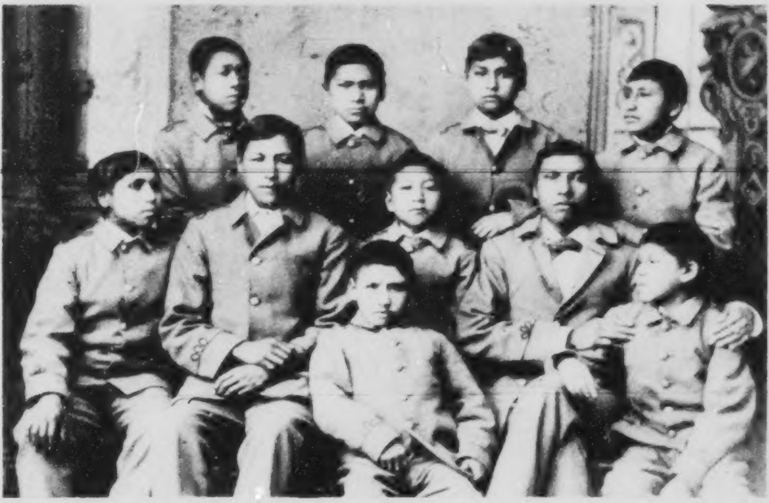
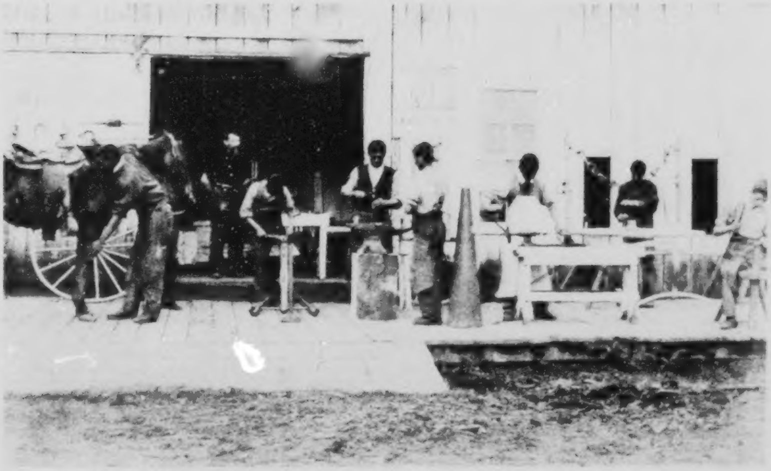
[25] Schmeckebier, *op. cit.*, pp. 70–76.



Group of Omaha Indian boys in cadet uniforms, Carlisle Indian school, Penn. Photographed by J. N. Choate, ca. 1880.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)



Class in blacksmithing for Indians, Forest Grove School, Ore. Photographed by Davidson, 1882.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

was established in 1879, followed shortly by four other non-reservation boarding schools. The name of Lieutenant R. H. Pratt is prominently associated with the early boarding school experiment. Indian Service traditions suggest that "unusual" methods were sometimes used to be certain that there were enough children available to fill the quotas established for the various schools. The growth in attendance may thus have been partially "force-fed" to justify the increase in expenditure for education.

An experimental program in industrial education was conducted that included some reservation and some non-reservation schools. There seems to have been little in the way of textbooks for the students or handbooks of instruction to guide the school officials. Much of what they attempted to achieve was on a trial and error basis.

Indian health during the 1870's was almost entirely a matter of local concern. Many of the matters that we think of as being in the province of city or county government were left to the tribes to take care of as internal problems. An Indian Service hospital was established as an adjunct to the Carlisle School in 1882, and by 1888 two more had been placed in operation by the Indian Service.

Concern for the economic problems of the Indians, in addition to the encouragement of instruction in agriculture and of programs to make farm implements available, resulted in experimentation with the supplying of livestock to Indian groups. By 1880 it was estimated that there were more than 78,000 head in Indian ownership.

Beginning in 1875, Indians were allowed to secure land under the homestead law on the same basis as non-Indians, if they would give up their tribal status. A further restriction withheld a negotiable title to the land acquired for a period of five years from the date of patent. Relatively few Indians availed themselves of the possibility that this law offered them.

LAW AND ORDER ON INDIAN RESERVATIONS

The annual reports of the Board of Indian Commissioners after 1869 reflect the concern of Indian agents that Indians become acquainted with, and be made responsible for obedience to the general laws of the land. The whole question of law and order within Indian country continued to be a subject for considerable discussion within the Indian Service.

At the recommendation of the Secretary of the Interior, the Congress authorized the establishment of a United States Indian Police in 1878, and within three years the system was in operation at 40 agencies and included 162 officers and 653 privates. In 1883, the establishment of Courts of Indian Offenses was authorized to allow tribal units to administer justice in relation to all but the major crimes.

In 1885, United States courts were given jurisdiction over cases involving murder, manslaughter, rape, assault with intent to kill, arson, burglary and larceny. These offenses were referred to in the Indian Service as the "Seven Cardinal Sins." The actions outlined above to improve the respect for law and the maintenance of order on Indian reservations were, at that time, regarded as an indication of considerable progress.

A TIME OF CHANGE

Although the rapid change that we are accustomed to at present may make the activities of Indian officials in the 1870's and 1880's seem rather prosaic, the Indian Service was actually in a period of considerable adjustment during these two decades. Some areas affected were Indian health, education, welfare, economy, law and order, and general administration. Many of the programs were tried with little apparent effect, but the experimentation in some cases resulted in far-reaching changes that would have considerable impact in the decades to come.

A major trend that we observe running through much of the legislation of this period was a tendency to further minimize the functions of tribal leaders and tribal institutions and to continually strengthen the position of the Government representative and his subordinates, and to improve effectiveness of their programs to break down traditional patterns within the Indian communities. Until the close of the Civil War the United States dealt with Indian tribes largely as individual self-governing units. Internal practices under tribal government had been left almost entirely to Indian leaders, and to local Indian custom.

In the Indian appropriations act of 1871 mentioned above the Congress had provided that "hereafter no Indian nation or tribe within the territory of the United States may contract by treaty." Before the 1870's, the Congress had been reluctant to extend na-

Blackfeet Chief Wades-In-Water, son of Chief Running Crane, in his uniform as Chief of Indian Police on the Blackfeet Reservation, an office in which he served with distinction for 25 years. Assuming his office shortly after the turn of the century in very unsettled times, he served both Indian and white as the often times uneasy mediator between white man's law and Indian custom, retiring in the early 1930's.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

Sioux Indian police lined up on horseback in front of Pine Ridge Agency buildings, Dakota Territory, August 9, 1882.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

Julia, wife of Chief Wades-In-Water, served as the only Indian policewoman in the United States in her day, retiring in the early 1930's with 25 years of dedicated service.
(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

tional criminal jurisdiction to include Indians within Indian territory. With the close of the treaty period, and with the specific inclusion of Indian territory within the area under the exclusive jurisdiction of the United States in relation to the Seven Major Crimes Act of 1885, this reluctance on the part of Congress ended. The loss of the local political autonomy traditionally maintained by Indian tribes often came with, or shortly after, the commencement of reservation life.[26]

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[26] Reservation life continued on of course, and a good insight into that life at the turn of the present century is found in Clark Wissler, *Indian Cavalcade:* or Life on the Old-time Indian Reservations (New York: Sheridan House, 1938).

CHAPTER FIVE

ALLOTMENTS TO INDIVIDUAL INDIANS

THE GENERAL ALLOTMENT ACT

The General Allotment or Dawes Act of 1887 is an example of a change in philosophy towards Indian administration which tended to encourage Government officials to deal with individual Indians and Indian families, and to by-pass tribal leaders and to sometimes ignore the tribal groupings. The allotment system, or the severalty plan, proposed to make individual landowners and farmers of the Indians, without reference to tribe or traditional community life. If it had been completely successful the allotment policy would have brought an end to the reservation system.

The Indian Rights Association, the Lake Mohonk Conference, the missionary boards and the Board of Indian Commissioners had considerable influence on members of the Congress during the framing and passage of the Dawes Act, and were supportive of it.[1] The annual report of the Board of Indian Commissioners for 1888 was reflective of the opinion of the United States generally in regard to this legislation:

> This bill, which became a law on the 8th of February, 1887, is a great step in advance in our Indian policy, and the day when it was approved by the President may be called the Indian emancipation day. The measure gives to the Indian the possibility to become a man instead of remaining a ward of the Government. It affords to him the opportunity to make for himself and his family a home, and to live among his equals a manly and independent life. It offers to him the protection of law and all the rights and privileges and immunities of citizenship.

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[1] A very useful narrative account of Indian relations, and of the role played by "friends of the Indians" during the period from 1865 to 1887 is Loring Benson Priest, *Uncle Sam's Stepchildren*, The reformation of United States Indian Policy, 1865–1887 (New Brunswick: Rutgers University Press, 1942).

> It is plainly the ultimate purpose of the bill to abrogate the Indian tribal organization, to abolish the reservation system and to place the Indians on an equal footing with other citizens of the country.
>
> We do not look for the immediate accomplishment of all this. The law is only the seed, whose germination and growth will be a slow process, and we must wait patiently for its mature fruit.

To the Indian the Allotment Act was revolutionary for he had traditionally tended to think of land use in terms of community rather than individual use practices. As conceived, the law would have allowed individual Indian allottees to become citizens of the United States, and also, by the terms of the 14th amendment, citizens of particular State. A patent in fee would have been given to the individual Indian allottee after the allotment had been held in trust by the Government for 25 years. As a citizen with a patent in fee the Indian would have been able to sell or do whatever else he wished with his land. He would have held a negotiable title.

The actual allotment of land to individual Indians proceeded slowly at first, but eventually this breaking up of tribal landholdings became a much speedier process. By experience it was learned that while the tribes held their lands in common there was little opportunity for covetous individuals to acquire Indian lands, but that after allotment to individual Indians the way was opened for exploitation of the individual owners as each acquired a negotiable title.

Some of the basic reasons that have been given for this attempt to break up the reservations and to allot land to individual Indians are:

1. A desire to replace tribal culture with white civilization.

2. A desire to protect the individual Indian allottee from further depredation by covetous individuals, by the railroads, and by the Government itself. (For some reason in the 1870's and 1880's it was conceived that it would be easier to protect the Indian as an individual than as a member of a tribe. This was exactly the opposite of what proved to be the fact.)

3. Since white individualism seemed to result in more rapid progress than tribal community life, it seemed desirable to break up tribal groups.

4. Since allotment seemed to be a short cut method for securing

assimilation, this seemed to be a way to save the Government further expense in its relations with the Indians.

In practice it was learned that relatively few Indians actually farmed their allotments. Because of this, provision was made for the leasing of Indian allotments in 1891. Although it was recognized that the income from leasing would secure for the owner only a fraction of the amount he might have gained by farming the land, since it already seemed apparent that these Indians were not ready to become farmers it was deemed better for the Indian to secure something for his land rather than nothing.

By the creation of the Dawes Commission in 1893, and by the Curtis Act of 1898, the effects of the allotment policy were extended to the Five Civilized Tribes in Indian Territory. Some 400,000 persons, greedy for tribal lands, made application for enrollment to secure allotments. The approved final roll contained approximately 101,000 names.

In addition to the allotment of land in severalty and the leasing of tribal lands, the Curtis Act provided for the incorporation of towns, for making per capita payments directly to individuals rather than through tribal governments, and for the abolition of tribal courts and the enlargement of the powers of the United States court. These two acts thus supplied the machinery that made it possible to break up the tribal systems of the Cherokee, Choctaw, Chickasaw, Creek, and Seminole—the Five Civilized Tribes.

Under the allotment policy the Secretary of the Interior was authorized to purchase from the tribes surplus lands not needed for individual Indians and open them to public sale. The money received from these sales was to be held in trust for the tribe by the Department of the Interior subject to appropriation by the Congress for the education, welfare, and civilization of tribal members.

It had been the stated intention of President Grover Cleveland to have the Allotment Act applied slowly to a reservation at a time as each was properly prepared. The clause mentioned above calling for the sale of surplus lands made such an arrangement impossible. By 1900 some 53,168 allotments involving almost five million acres had been made. As a result of pressures from speculators and land hungry white settlers eager to buy the surplus lands, the Indian landholdings had shrunk from 155,632,312 acres in 1881 to 77,865,373 acres in 1900. In the face of this land grab some still purported to believe that the program would result in the rapid civilization of the Indian, make him a self-supporting citizen, and bring a rapid conclusion to the Indian problem.[2]

Two points should be made: the first in relation to the failure of the friends of the Indians to continue to watch the application of the policy after the law was passed in 1887 to see that it was applied and enforced in an enlightened manner; and the second in relation to the failure of the supporters of the legislation in the Congress to see to it that the entire project be considered essentially educational. While the Indians were now supposed to earn their living by farming, educational facilities provided to give training in agriculture were entirely inadequate to the requirements of the program. In most cases farming operations, as practiced by the dominant society, just did not come naturally to Indians. It is easy for us to look back on the Allotment Act of 1887 and call it a failure, but to friends of the Indian groups, almost unanimously, it had seemed the solution to the Indian problem, *before it was tried.* Perhaps we should find in this a warning of the difficulties that surround attempts by one people, even in sincerity and friendship, to decide what is best for another.

Senator Pendleton of Ohio had very dramatically stated the position of the Indian during the debate on allotment of Indian lands as early as 1881:

> Now, Mr. President, I do not believe, and I say it frankly, that any bill can be framed upon this subject of Indian control which is entirely consistent, and entirely satisfactory; and the reason is a very simple one. There are difficulties surrounding this subject which are inherent and artificial, and in both aspects they are very great. They arise from the fact that our constitutions and our laws were passed for the control and the government of the white citizens of the country and not for these Indian tribes; they arise from the fact that when those constitutions and laws were passed these Indians were treated as quasi-foreign nations; that treaties were made with them; that a vast territory was set apart for them in which they could indulge in their natural habits; habits entailed upon them by centuries of practice, indulge in the chase, in fishing, and in war among themselves. We had no connection with them except

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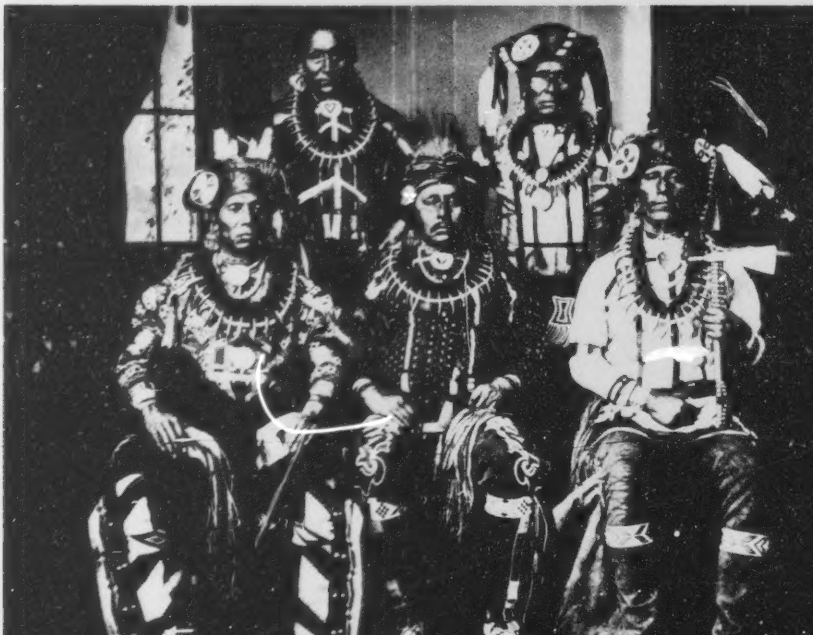
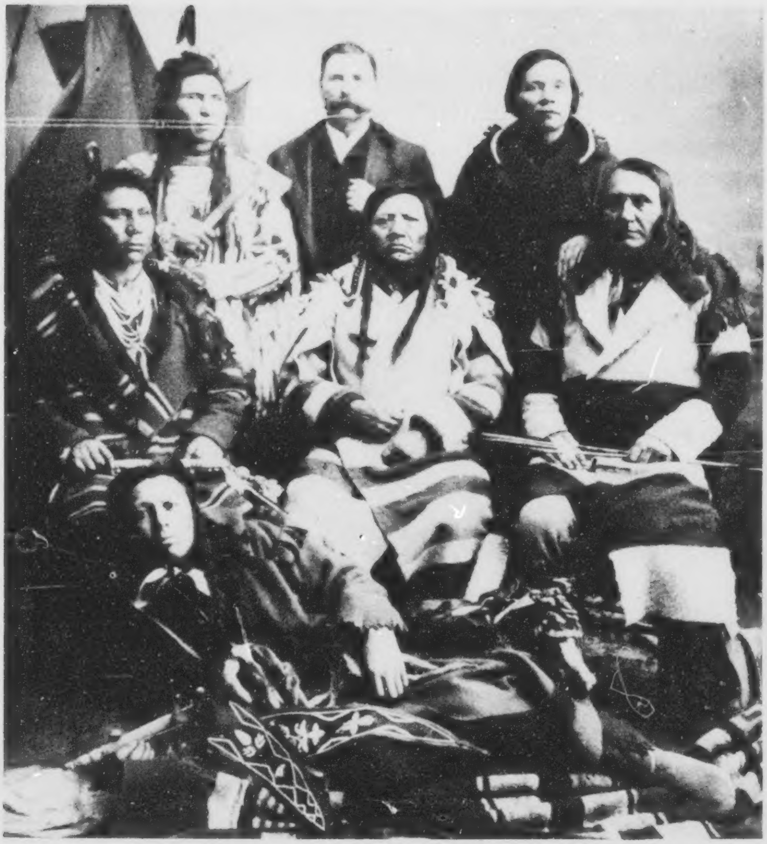
[2] D. S. Otis, *History of the Allotment Policy: Hearings on H. R. 7902* (Washington: 73rd Cong., 2d sess., U. S. House of Representatives, Committee on Indian Affairs, 1934), pt. 9, pp. 428–489. An interesting appraisal of the results of the allotment policy.

by the passage of the non-intercourse law, to prevent the intrusion of our own citizens among them. As long as they confined themselves to their reservation—I mean that vast expanse of territory which was known under the name of the Indian Territory, or a few years ago as the unorganized territory of the United States—they might pursue the chase, they might pursue fishing, they might make war among themselves, they might commit any barbarities and wrongs among themselves, and we take no notice; and it was only here and there by a sporadic and ineffectual attempt at teaching them the arts of civilized life that we had any connection with them whatever except when they intruded upon our territory and marauded upon our citizens. It was easy enough comparatively to deal with a class of men whom we recognized as nations, with whom we made treaties, whom we segregated from our citizens, and to whom we assigned that vast expanse of western territory. But that condition of things has entirely changed; the times have passed; the conditions of this Government and those governments (if I may call the Indian tribes such) have entirely changed. Our villages now dot their prairies; our cities are built upon their plains; our miners climb their mountains and seek the recesses of their gulches; our telegraphs and railroads and post offices penetrate their country in every direction; their forests are cleared and their prairies are plowed and their wildernesses are opened up. The Indians cannot fish and hunt. They must either change their mode of life or they must die. That is the alternative presented. There is none other. We may regret it, we may wish it were otherwise, our sentiments of humanity may be shocked by the alternative, but we cannot shut our eyes to the fact that that is the alternative, and that these Indians must either change their modes of life or they will be exterminated. I say, Mr. President, in order that they may change their modes of life, we must change our policy; we must give them, and we must stimulate within them to the very largest degree, the idea of home, of family, and of property. These are the very anchorages of civilization; the commencement of the dawning of these ideas in the mind is the commencement of the civilization of any race, and these Indians are no exception. It must be our part to seek to foster and to encourage within them this trinity

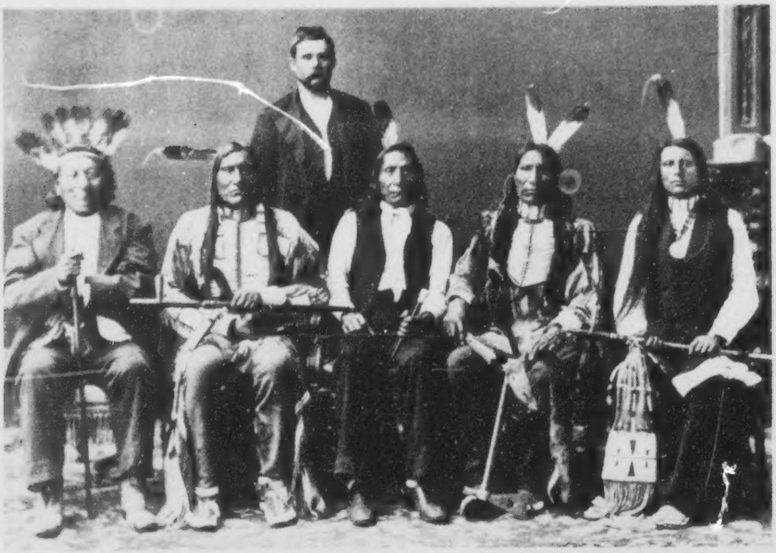
Mandan and Arikara delegation. Six Indians with three escorts, 1874.
(Photo: Smithsonian Institution.)





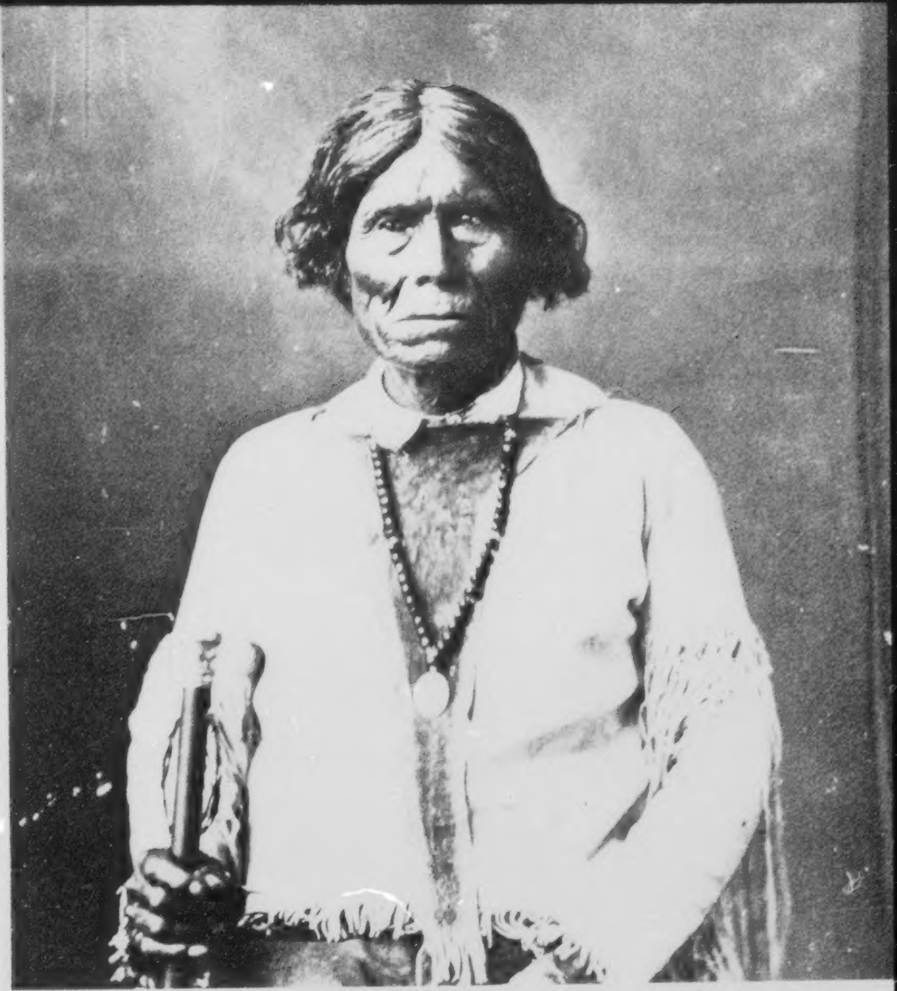
Flathead delegation of six and an interpreter. Photographed by C. M. Bell, 1884.
(Photo: Smithsonian Institution.)

Oto delegation of five wearing claw necklaces and fur turbans. Photographed by John K. Hillers, January 1881.
(Photo: Smithsonian Institution.)



Red Cloud delegation. Left to right: Red Dog, Little Wound, John Bridgeman (interpreter), Red Clous, American Horse, and Red Shirt, all Oglala Sioux, Photograph taken prior to 1876.

(Photo: Smithsonian Institution)



Silver-topped ebony walking cane held by Pueblo Governor in this early photograph is engraved "A. Lincoln, a San Juan, 1863." First "Governors" canes were gifts of Spanish Crown in 1620, with the establishment of Pueblo gubernatorial system.

(Photo: Smithsonian Institution.)

Standing Bear, Ponca chief whose persistent efforts helped bring about the first decision by the U. S. Courts that "an Indian is a person within the meaning of the law of the United States." Standing Bear visited several eastern cities following the 1879 ruling, and aroused widespread public sentiment for fair treatment of Indians.

(Photo: Smithsonian Institution.)

> upon which all civilization depends—family, home, and property.[3]

D'Arcy McNickle's comment on Senator Pendleton's remarks is a classic:

> In the heat of such a discussion, it would not have occurred to any of the debaters to inquire of the Indians what ideas they had of home, of family, and of property. It would have been assumed, in any case, that the ideas, whatever they were were without merit since they were Indian.[4]

In Theodore Roosevelt's message to the Congress, December 8, 1901, we find the same urgency as expressed by Senator Pendleton in 1881:

> In my judgment the time has arrived when we should definitely make up our minds to recognize the Indian as an individual and not as a member of a tribe. The General Allotment Act is a mighty pulverizing engine to break up the tribal mass. It acts directly upon the family and the individual. Under its provisions some sixty thousand Indians have already become citizens of the United States. We should now break up the tribal funds, doing for them what allotment does for the tribal lands; that is, they should be divided into individual holdings.[5]

In 1906 the Burke Act was passed by the Congress to amend some of the features of the General Allotment Act. Although the trust period was continued as 25 years, broad discretionary powers were given to the Secretary of the Interior to release particular Indian allottees from Federal supervision ahead of schedule by a declaration of competence. For a time considerable discretion was used in making early declarations of competence, but when the "new declaration of policy" was promulgated by Commissioner Sells such caution was no longer practiced.

The Clapp Amendment which related to the White Earth Chippewa of Minnesota, passed by the Congress in 1906, in effect allowed any mixed-blood White Earth Chippewa to transform his trust patent into a patent in fee and freed him from Government supervision. The individual Indians could then dispose of their allotments as they saw fit. As a result, most of the valuable white pine timber lands held by these Indians were sold to lumber interests at unfair and inadequate prices.

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[3] *Congressional Record*, vol. 12, pt. 1, pp. 905–906, 46th Cong., 3d sess. (1881).

[4] D'Arcy McNickle, "Indians and Europeans: Indian-White Relations from Discovery to 1887," *American Indians and American Life, The Annals*, vol. CCCXI, May 1957.

[5] *Messages and Papers of the Presidents*, vol. XV, p. 6672.

This action referred to as the "White Earth Scandal" is one of the few cases where the Congress intervened in the activities of the Department of the Interior and took supervision of Indian property with the result that Indian title was soon lost. The loss of this valuable property which followed this Congressional action is one of the black spots in the administration of Indian affairs.

Under the administration of Theodore Roosevelt from 1905 to 1909, there was an attempt to secure title to certain forest lands held by various western tribes in the name of conservation. Eight Executive Orders were signed two days before the end of his term of office that sought to have two and a half million acres of Indian reservation forest land included in respective national forests. It was later determined that the action taken by President Roosevelt was beyond the power of the Executive. The lands were, therefore, returned to their former status.

The work of terminating the tribal affairs of the Five Civilized Tribes was intensified during this same period. In 1901 the Congress conferred citizenship on all Indians in the Indian Territory. The Indian appropriation act of 1903 carried a "rider" to remove restrictions from much of the allotted lands held by the Five Civilized Tribes, and non-Indians began to systematically separate the Indians from their land. The Indian Bureau also took over the school system of the Five Civilized Tribes in 1906.

Oklahoma became a State in 1907, and citizens began agitation for legislation to make Indian land available on the market and to increase the taxpaying lands of the State. By the act of May 27, 1908, sometimes referred to as the "Crime of 1908," thousands of mixed bloods, freedmen, and other allottees were given their lands without restrictions. Nearly 90 percent of the allottees disposed of these lands to non-Indians and had soon spent the proceeds.

The act of 1908 also ended the supervision of the Secretary of the Interior in probating Indian estates for the Five Civilized Tribes and conferred that function upon the county courts. The exploitation of these Indians that resulted from this arrangement soon became a matter of record. The affairs of these Indians had been handled through two separate offices in Muskogee—that of a commissioner who attended to matters left over by the Dawes Commission and of the superintendent for the agency. Each had Civil

Service status. In 1914 the Congress provided for a "Superintendent for the Five Civilized Tribes," to be appointed by the President with the advice and consent of the Senate. Although this was a reversion from Civil Service and back to the former political system, the first appointee under the new consolidation, Mr. Gabe Parker, was of Indian blood.

In 1905 the Attorney General rendered a decision that the Federal Government could make contracts with sectarian schools using Indian trust funds to pay for the children's schooling, and President Roosevelt ordered that it be done. This raised constitutional questions and a suit was brought to restrain the Government from using these funds for that purpose. The suit was carried to the United States Supreme Court which ruled in 1908 that the Secretary had authority to use tribal funds for sectarian schools.

The production of low-priced automobiles after 1900 introduced an influential factor in the rate of change among Indians. The "tin flivver" became an important change agent in the acculturation process. The Indians took advantage of this new opportunity. It enabled them to get first-hand information of the world beyond the reservation. And non-Indians hundreds of miles from the reservations annually traveled through the Indian country, met the Indians, and many contacts were made that led to better understanding.

Railroad building continued and eventually sent railways all over the Indian country. Telephone companies secured the right to string wires across reservations in 1899 and two years later power companies were granted the right to carry electric power across reservations. The Congress also passed an act that year authorizing the opening of public roads through Indian lands. Each of these intrusions carried the non-Indian way of life nearer to the homes of the Indian people.

On July 3, 1902, the Secretary of the Interior made the first oil and gas lease on Indian lands within the present boundaries of the State of Oklahoma. The development of oil in this section was phenomenal. Six years after that first lease, about 22,000 others had been so authorized. The history of oil development in Oklahoma is intimately related to the alienation of Indian lands in the area occupied by the Five Civilized Tribes. It was oil, not agriculture, that was the prime incentive for exploitation, and that resulted in the separation of thousands of Oklahoma Indians from their lands and money.

An appropriation of $25,000 for the Fort Belknap Reservation in 1908 marked the beginning of the use of reimbursable funds for the development of reservation resources and for other industrial purposes. The aggregated reimbursable appropriations for such purposes soon reached $750,000.

INDIAN HEALTH

In 1909 a medical supervisor was appointed. This marked the beginning of a regular Indian medical service. In 1873 the Indian Office had attempted to organize its previously unsupervised and rather inactive efforts to give medical assistance. A medical and educational division was established in the Bureau. Efforts were made to give service, but there was little money available. In 1877, when the medical section of the division was terminated, and until 1909, medical care for Indians was left to the agency and school doctors.

These doctors did some good work under discouraging financial, administrative, and living conditions sometimes largely under the compulsion of the missionary spirit then characteristic of the medical profession. The medical supervisor appointed in 1909 was again placed in the educational division. For some time the medical service was under the direction of a layman.

An Indian health program became a regular part of Indian Office administration in 1911. Several surveys of health and sanitary conditions were made in schools and on reservations that disclosed an alarming prevalence of tuberculosis and trachoma. The Secretary of the Interior in 1912 presented this collected data to President Taft, who immediately forwarded the information as a special message to the Congress urging an appropriation of $253,000 for medical relief for the Indians. Although he did not secure an appropriation for that amount, his message stirred the Congress to a realization of the seriousness of the situation, and funds for the Indian medical service were materially increased.

President Taft's message startled the country. It showed a truly shameful situation. These excerpts from that document, one of the few presidential messages dealing with Indians in this century, present a summary of the health conditions of Indians then under Federal supervision:

> In many parts of the Indian country infant mortality, tuberculosis and disastrous diseases generally prevail to an extent exceeded only in some of the most insanitary of our white rural districts and in the worst slums of our large cities. The death rate of the Indian country is 35 per thousand as compares with 15 per thousand—the average death rate of the United States as a whole . . . Last year, of 42,000 Indians examined for disease, over 16 percent of them had trachoma, a contagious disease of the eye, frequently resulting in blindness, and so easily spread that it threatens both the Indian communities and all their white neighbors . . . Of the 40,000 Indians examined, 6,000 had tuberculosis . . . Few Indian homes anywhere have proper sanitary conditions, and in most instances the bad conditions of their domestic surroundings is almost beyond belief.
>
> As guardians of the welfare of the Indians, it is our immediate duty to give the race a fair chance for an unmaimed birth, healthy childhood, and a physically efficient maturity. The most vigorous campaign ever waged against diseases among the Indians is now under way. It began in 1909. Prior to that time little attention had been given to the hygiene and health of the Indians. In some reservations, equal in area to a State, there were not more than two physicians, frequently only one. In 1909 tens of thousands of Indians were substantially without any chance to reach a doctor.
>
> With this additional appropriation, if granted by Congress, it is believed that the tide can be turned, that the danger of infection among Indians themselves and to the several millions of white persons now living as neighbors to them can be greatly reduced, and genuine cooperation with local State boards of health now already under way can be adequately provided for.[5]

The next year the Public Health Service conducted a survey of Indian health, stressing trachoma and tuberculosis, and the Congress responded to the distressing disclosures by granting further appropriations. The general appropriations for Indian medical service in 1911 was $40,000; by 1918 it had climbed to $350,000.

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[5] *Congressional Record*, August 10, 1912, pp. 10, 643–44.

WORLD WAR I AND THE INDIAN SERVICE

The effect of World War I upon the Indian Service is usually not taken into account in studies of the administration of Indian affairs. Most of the activities relating to health, education, and welfare were seriously crippled. Little if any new construction was attempted; repairs of agency, school, and hospital plants were reduced to the minimum, and for some time after the war appropriations for buildings were not adequate. Schools, hospitals, employee's homes, agency buildings, and equipment were in a deplorable condition.

Many of the effective men who left because of the war did not return to the Indian Service. Low salaries, even lower in comparison to the higher pay offered by industry after the war, forced the Indian Service to take men it could find to fill vacancies. Postwar conditions in the field service were reportedly a source of discouragement.

The Indians had shown considerable interest in the war. Thousands volunteered. Many were cited for bravery under fire. The exact number that served is not known, but it has been estimated that more than 15,000 young Indians saw active service. Hundreds from the northern tribes slipped across the border before the United States became involved to enlist in the Canadian Army.

Indian women on many reservations were active in Red Cross work; several thousand Indians bought Liberty bonds, and subscribed to other war activities; and children in the Indian schools displayed a patriotism reportedly as genuine as that shown in public schools generally.

THE NEW DECLARATION OF POLICY

On April 17, 1917, the Commissioner of Indian Affairs announced the "new declaration of policy." The time had come, he said, for the separation of the full bloods and the mixed bloods, for discontinuing Federal guardianship of competent Indians, and for giving closer attention to those considered incompetent in order to more rapidly improve their competency.

After this policy pronouncement, it was declared that all able-bodied Indians of less than half Indian blood should be given, as the law would permit, full and complete control of all their property. It was further stated that patents in fee should be issued to all adult

Indians of one-half or more Indian blood found competent, provided that patents should be withheld for 40 acres as a home site where it seemed advisable.

Competency commissions were sent to the various reservations and 10,956 fee-simple patents were issued between 1917 and 1920 compared to 9,894 in the period from 1906 to 1916. The result of this liberalization of the allotment policy was disappointing, for most of the Indians thus released from Federal supervision quickly disposed of their property.

When the Secretary of the Interior in 1920 ordered that further issuance of patents in fee cease, and that no Indian be granted one thereafter until his particular case had received a searching examination, he in essence directed that "freeing the Indian" should be individualized—it had been handled as a group proposition since the "new declaration of policy" in 1917.

A so-called "Five-year industrial program," tried on an experimental basis on the Blackfeet Reservation in 1922, held out the promise that Indians could be made "self-supporting citizens" through the development of plans to make more efficient use of reservation resources. Its early success encouraged the Indian Service to extend the program to other reservations, modified where necessary to meet special situations.[6]

President Calvin Coolidge signed the Indian citizenship bill June 2, 1924, and thereby all non-citizen Indians became citizens of the United States. This act sought to merge the Indian people into the general citizenry of the country, although actually, prior to the President's approval of the act, about two-thirds of the Indians were already citizens.

It was by now evident that Indians were not members of a dying race, that the Federal Indian program was admittedly complex, and that specific Indian problems would not just go away if ignored. It was apparent that immediate goals would have to be more closely related to long-range goals if the latter were ever to be realized. Future attempts to solve particular Indian problems would need to take these factors into account.

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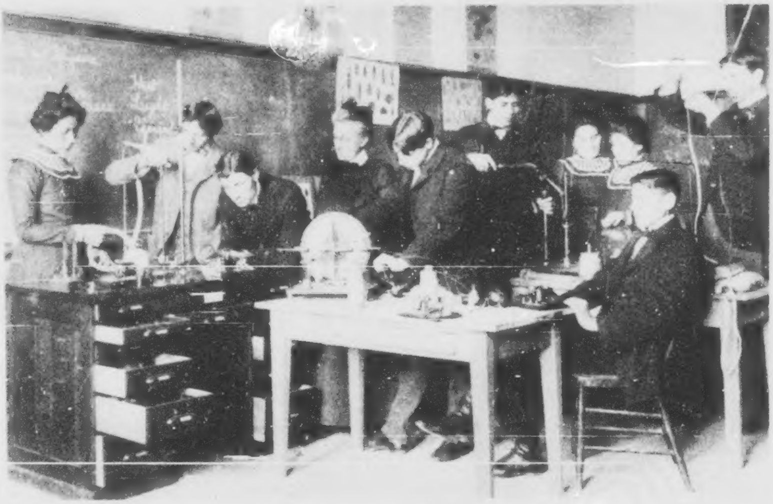
[6] *Annual Reports of the Commissioner of Indian Affairs;* 1922, pp. 11 and 12; 1924, pp. 12–13.



Indian boys and girls conducting physics experiments, Carlisle Indian School, Penn. Photograph ca. 1915.

(Photo: National Archives and Records Service.)

Football team on the field, Haskell Institute, Lawrence, Kans. Photograph, 1914. (Haskell Institute is now Haskell Indian Junior College.)

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

A BACKGROUND TO FURTHER REFORM, 1922 TO 1928

In November of 1922 there gathered at the Pueblo of Santa Domingo representatives to an all-Pueblo council, advertised as the first such meeting since the revolt of the Pueblo Indians against the Spanish in 1680.[7] The purpose of this body was to raise a united voice in protest against the Bursum Bill: "An act to quiet the title to lands within Pueblo Indian land grants . . ."

The protest of the Indians against this bill, which would have allowed non-Indians to gain title to lands within the Indian pueblos, echoed throughout the United States and many friends of the Indians picked up and strengthened the reverberations. Although Secretary Albert Fall and Senator Bursum called their critics propagandists [8] and the House Indian Affairs Committee branded their propaganda as "Insidious, untruthful, and malicious," [9] the combined efforts of the Indian Rights Association, the newly-formed American Indian Defense Association, the Indian Welfare Committee of the General Federation of Women's Clubs, the editor of the *New York Times*, and the Indians themselves resulted in the defeat of the Bursum bill and the establishment of the Pueblo Lands Board as an impartial body to investigate the non-Indian land claims.

With this impetus the Indian reform movement began in earnest. Writing articles for such magazines as *Sunset, The Survey, Current History*, and *The Forum*, such authors as John Collier, Stewart Edward White, James Willard Schultz, M. Clyde Kelly (member of the House Committee on Indian Affairs), Walter V. Woehlke, Mary Austin, Flora Warren Seymour, and others, often using strong language, pointed out the weaknesses in our Indian program and the failure of the Indian office to protect Indians against local politicians, land grabbers, bankers, businessmen, judges, and others. It was said that the Indians were being "shamelessly and openly robbed in a scientific and ruthless manner." [10]

Results were not long in appearing. In 1923 Hubert Work replaced Albert B. Fall as Secretary of the Interior. In 1924 the Pueblo Lands Board Act was passed. The year 1925 saw the passage of the Osage Guardianship Act. The issuance of fee patents on allotted lands continued to be retarded. Slowly at first, but gaining momentum during the later 1920's, the climate for change began to improve in the Congress, within the Department of the Interior, and in the Indian Service.[11]

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[7] Randolph S. Downes "A Crusade for Indian Reform, 1922–1934," *The Mississippi Valley Historical Review*, vol. XXXII, no. 3, December 1945, p. 335.

[8] See *New York Times*, January 21, 1923, Section 1, p. 4; January 26, 1923, p. 16; January 28, 1923, Section 7, p. 12; February 8, 1923, p. 5; and February 16, 1923, p. 4.

[9] Downes, *op cit.*, p. 226; see also *New York Times*, January 15 and 25, 1923; also *House Report 1730*, 67th Cong., 4th sess. (1922), p. 8.

[10] Downes, *op. cit.*, pp. 337–339.

When Hubert Work became Secretary of the Interior it was apparent to him that the only way to avoid the continued needling of the reformers was to officially examine the Indian Service and recommend whatever changes seemed to be necessary.

The first report to appear at his request was that of the Committee of One Hundred, a national advisory committee on Indian affairs. Completed in December of 1923, it appeared the next year as a congressional document bearing the title "The Indian Problem." [12] Although John Collier spoke of it very disparagingly, stating that "not one fundamental proposition . . . was put across," actually some of the recommendations were repeated in the Meriam Report and later given legal form in the Indian Reorganization Act.[13]

The report of the Committee of One Hundred did not satisfy the reformers nor did it offer ways of achieving the program outlined. The Congress did not yet feel compelled to budget funds to meet the recommendations made. Still under public pressure and still feeling the need for further study of the Bureau, Secretary Work called upon the Board of Indian Commissioners to investigate the Bureau and make recommendations to him. Their report was submitted January 26, 1926. Apparently they realized that they were not able to do what was needed, for in their annual report, submitted later the same year, they recommended that a "non-government, disinterested organization, with a field force of experts" be engaged to make a study. They suggested that such a study, properly done, "would carry great weight not only with Congress but also with the general public." [14]

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[11] *Ibid.*, p. 340.

[12] *The Indian Problem.* Resolution of the Committee of One Hundred Appointed by the Secretary of the Interior and a Review of the Indian Problem, January 7, 1924 (Washington: Government Printing Office, 1924), Appendix E, pp. 48–49.

[13] Downes, *op cit.*, p. 340; see also John Collier, "The Red Slaves of Oklahoma," Sunset, vol. LII, March, 1924.

[14] Downes, *op cit.*, pp. 341–342; see also *Annual Report of the Board of Indian Commissioners*, 1926, p. 13.

On June 12, 1926, Secretary Work officially requested W. F. Willoughby as director of the Institute for Government Research to make the survey, which was financed with funds provided by John D. Rockefeller, Jr. and submitted to the Secretary of the Interior, February 21, 1928. Published and widely disseminated as a study of *The Problem of Indian Administration*, it accomplished what the Board of Indian Commissioners had predicted it would, and both the Congress and the general public were impressed.[15]

Having a desire to see agricultural conditions for Indians improve, Secretary Work requested in March of 1927 a survey of Indian irrigation projects. This too was completed in 1928 and was published later as the Preston-Engle Irrigation Report. It was in the same scientific tradition and strongly complimented the Meriam Report which had not attempted to cover this phase of the problem.[16] Although Secretary Work and Commissioner Charles H. Burke were not able to effect the changes recommended in these reports, the recommendations they contained were available to strengthen the hands of Wilbur and Rhoads in their relations with the Congress during the next administration.

With all the sound and fury accompanying Indian administration during the 1920's, it was inevitable that there be a congressional investigation. Early in 1928, Utah Senator William H. King introduced a resolution that provided for an exhaustive survey of conditions prevalent among Indians. While the Indian Bureau did not openly oppose the investigation, they believed that the Meriam Report furnished enough evidence to make the proposed Senate investigation unnecessary.

John Collier appeared at the hearings on the King resolution in his capacity as executive secretary of the American Indian Defense Association. The following statement was made as a part of his speech urging the necessity of the investigation:

> Now, any condition that has existed and slowly increased over successive administrations, over 10, 20, or 30 years, obviously is such a condition as cannot be due to wrongdoing of any individual or group of individuals. It must be due, if it is

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[15] *The Problem of Indian Administration*, edited by Lewis Meriam (Baltimore: Johns Hopkins Press, 1928), cited hereafter as the Meriam Report.

[16] *Review of Conditions of the Indians in the United States: Hearings Before the Committee on Indian Affairs* (Washington: 71st Cong., 2d sess., U. S. Senate, S. Res. 78 and 308, 1930), pt. 6, pp. 2210-2661. *The Preston-Engle Report.*

a bad condition, to some definite bad thing, a system and method of operation, or a body of laws.[17]

The resolution was passed February 2, 1928, with an accompanying appropriation of $30,000 for expenses. The first hearings under the resolution were held by a subcommittee of the Senate Committee on Indian Affairs November 12, 13, and 16, at Yakima, Wash., and Klamath Falls, Ore. They were to continue until August 1943, and be published in 41 parts and 23,000 printed pages.[18] A supplemental report was made May 2, 1944.[19]

In reviewing the hearings before the Senate and House Committees on Indian Affairs from 1925 to 1928 particularly, and in studying the Meriam Report, we find the roots of many of the policy statements of the next 30 years. The Collier administration is a divergence from the basic trend that dominated Indian policy from the 1870's to 1920. Quite definitely the 1920's were pregnant with ideas that were given birth, nurtured, and matured particularly in the 1930's and 1940's.

The conferral of citizenship on the approximately one-third of the Indian population that were not already citizens had no noticeable immediate effect, but later the fact that all Indians were citizens would be used by the national Government as a pressure on the States to treat Indians as other citizens, to grant them all the rights and privileges other citizens were allowed, and to give them all the services. It would be used on the Indians to accept the same duties and responsibilities that other citizens were heir to, including "freedom" and taxes.

THE RHOADS-SCATTERGOOD ADMINISTRATION, 1929–1933

The Meriam Report recommended many changes in 1928 that would not occur until the 1930's and 1940's. Many of the recommendations made 40 years ago are still appropriate today. Actually the Congress, although its members praised the study highly, did not consistently support the Bureau in the attempt to carry out the recommended changes.

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[17] *Hearings on S. Res. 77,* (Washington: 70th Cong., 1st sess., U. S. Senate, Committee on Indian Affairs, January 10, 13, 1928), p. 12.

[18] *Survey of Conditions of the Indians in the United States: Hearings Before the Committee on Indian Affairs* (Washington[illegible]0th Cong. to the 78th Cong., U. S. Senate, Committee on Indian Affairs, 1928–43[illegible]reinafter referred to as Senate Survey of Indian Affairs.

[19] *Survey of Conditions Among the Indians of the United States, Supplemental Report* (Washington: 78th Cong., 2d sess., U. S. Senate, May 2, 1944), Report No. 310, pt. 2. Complete citation hereinafter referred to as Senate Survey of Indian Affairs, Supplemental Report.

The Meriam study was not a revolutionary document. Many of the recommendations made were not original with the survey team, but were present in earlier studies, annual reports, and recommendations to the Congress. Probably the greatest service of the Meriam Report was to bring the material together, organize it, and present it as one comprehensive document, done by a competent private agency, with no political obligations. It was a document that all who were interested in the Indian were able to rally behind: the Congress, the Bureau, the reformers, and the general public. It was to be a "bible" for Indian administration.

The team appointed by President Herbert Hoover to carry out the recommendations of the report consisted of three illustrious gentlemen who were sincerely interested in the welfare of the Indians. Ray Lyman Wilbur, formerly president of Stanford University, editor and social worker, was named Secretary of the Interior; Charles J. Rhoads, Quaker humanitarian, wealthy Philadelphia banker, member of social service organizations and president of the Indian Rights Association, was named commissioner; and J. Henry Scattergood, also a Quaker, treasurer of Bryn Mawr College, interested in social service and member of the Indian Rights Association, assistant commissioner.

Secretary Wilbur was the more impulsive of the three. Almost immediately after appointment, largely following the Meriam Report's recommendations, he issued a statement of the Indian policy his administration would follow.[20] A *New York Times* editorial warned against trying to move too rapidly, suggested that education was not a cure-all for the Indian problem, and reminded the Secretary of the results in Oklahoma and New Mexico when Indians were given full responsibility too soon.[21]

The Board of Indian Commissioners commented that this new policy "to make the Indian a self-sustaining, self-respecting American citizen just as rapidly as this can be brought about" should meet with the "general approval of fairminded, forward-looking

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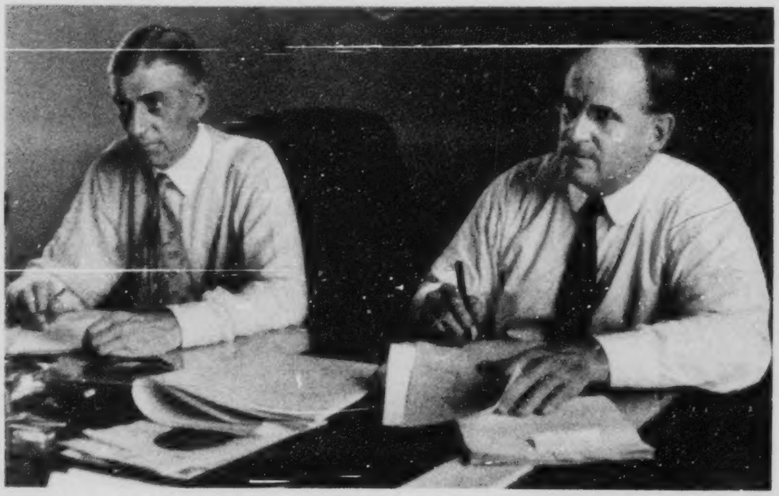
[20] *Annual Report*, Board of Indian Commissioners, 1929, pp. 3–4.

[21] *The New York Times*, April 28, 1929, III, 4:5.



Charles J. Rhoads, Commissioner of Indian Affairs, left, and J. Henry Scattergood, right, Assistant Commissioner (1929-33) under President Herbert Hoover, began a period of reform as a background to passage of the Indian Reorganization Act of 1934.

(Photo: National Archives and Records Service.)

John Collier, Commissioner of Indian Affairs from 1933 to 1945, in which period the Indian Reorganization Act was passed.

(Photo: Smithsonian Institution.)

friends of the Indian people," then went on to make some criticisms and to plead for caution:

> [Former administrators] learned that all the methods they found in use when they grappled with the Indian situation should not be thrown into the scrap heap, and that they got further through the slower process of evolution rather than by adopting drastic changes in policies and programs.[22]

Commissioner Rhoads also had reservations in regard to the accelerated program outlined by Wilbur, but there was never any open difference of opinion expressed.[23] For official publication Wilbur's plan for rapid transfer of the responsibility for the Indian to the States and the elimination of the necessity for a Bureau of Indian Affairs within 25 years continued to be a basic element of Indian policy. Rhoads quietly went about his duties, acquiring additional land for tribes needing it, trying to eliminate reimbursable debts, to reorganize irrigation, strengthen the programs in education and health, and to improve Bureau personnel at every opportunity.

Rhoads and Scattergood were both cautious. They proceeded slowly, trying to determine exactly what the results would be before recommending changes. Probing continually, they made many recommendations to the Congress which then failed to be enacted into law, but were later incorporated into the Indian Reorganization Act.

Both John Collier and Harold L. Ickes were jubilant when they learned of the Rhoads-Scattergood appointment and actively cooperated with the Bureau until they became dissatisfied with the rate of progress shown. Commissioner Rhoads had accepted his appointment reluctantly. After several months of conscientous effort he confessed that "the appointment as Commissioner of an experienced business executive with little knowledge of Indian affairs and, in consequence, no preconceived ideas might be excellent in theory but not so good in practice." [24] He was overwhelmed by the intricacies of the Indian situation and "the mass of detailed information necessary to arrive at even a reasonable understanding of all its complexities." [25]

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[22] *Annual Report*, Board of Indian Commissioners, 1929, pp. 3-6.

[23] *The New York Times*, July 4, 1929, 14:3.

[24] Edward Everett Dale, *The Indians of the Southwest* (Norman: University of Oklahoma Press, 1929), p. 155, "Report of Personal Interview."

[25] *Ibid.*

In four memoranda Rhoads outlined specific problems he saw in Indian administration: (1) Reimbursable debts, (2) Better methods of safeguarding Indian properties (incorporation, increasing power of tribal councils), (3) Settlement of Indian claims, and (4) Reclamation and irrigation of Indian lands.

These problems were some of the most difficult and fundamental in Indian affairs. The publication of the American Indian Defense Association (John Collier, editor) referred to Rhoads' action as an exploration into formerly "forbidden ground," and "an epoch in Indian history." [26] Each was to prove itself a knotty problem. Only in the case of reimbursable debts was Rhoads to enjoy real success. July 1, 1932, the Leavitt Act was passed,[27] eventually freeing the Indians of liens on allotted lands totaling many millions of dollars. They had never requested, and received little benefit from, some of the projects charged against them.

IRRIGATION AND RECLAMATION

In regard to irrigation and reclamation, the Preston-Engle Report had recommended (1) Cooperation with the Bureau of Reclamation and transfer of large Indian irrigation projects to Reclamation; (2) Reorganization of Indian irrigation services, and (3) Abandonment of useless projects.[28] Secretary Wilbur had recommended transfer of Indian reclamation to the Bureau of Reclamation. Rhoads stopped the transfer and would not agree to the abandonment of projects. He felt that the cause of the Indian would be better safeguarded if the Bureau retained control.

It is interesting to observe the stand taken by the American Indian Defense Association during this period in their publication *American Indian Life*. John Collier as executive secretary of the association and editor of the publication was an untiring commentator on Indian policy and Bureau practices.

INCORPORATION AND INDIAN CLAIMS

It was in his attempt to remedy some of the evils of allotment and heirship land problems that Rhoads mentioned the possibility of a bill modeled after the McNary Bill to incorporate the Klamath tribe as a means of teaching the Indian to manage his own property and his own business affairs.[29] Such a tribal corporation would act through an elected board of directors and be governed by Indian shareholders.

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[26] "Five Epoch Making Announcements Concerning Indian Law," *American Indian Life*, Bulletin 15, January 1929, pp. 13–14.

[27] *U. S. Statutes at Large*, vol. XLVII, no. 564, "Act of July 1, 1932."

[28] *Preston-Engle Report*, cited above.

This arrangement, first suggested in the Meriam Report, was referred to by the American Indian Defense Association as "the most pregnant bill affecting Indians that has been introduced for many years." [30] Vera Connolly reported that tribal incorporation was something "which most of those who love the Indian race seem, today, to approve." [31] This was in 1929. From 1929 to 1933 the incorporation idea gained ground, although it was not to achieve legislation during this administration. The idea was, of course, basic to the Indian Reorganization Act.

Rhoads also recommended that a special claims commission be created to hear claims of individual Indian tribes against the United States. It was suggested that at the current rate of progress it would take a hundred years for the Court of Claims to hear cases needing adjudication. Various studies of the Indian problem made during the 1920's resulted in recommendations similar to those of Rhoads, whose recommendations were similar to those found in the Meriam Report. Representative Scott Leavitt in January 1929, introduced a bill (H.R. 7963) to create a United States Court of Indian Claims,[32] but there was no action taken by the Congress on the bill. This, like other recommendations of Rhoads, had to wait several years to reach fruition.

IMPROVED HEALTH PROGRAM

Rhoads discovered that the solution to the problem of Indian health required more than the voting of funds by the Congress. Paraphrasing the Meriam Report, the eventual solution of the Indian problem would require education, in the broadest sense. Before doctors and hospitals could be of any use to Indians, they had to learn to appreciate what medical practices and facilities could do to improve their lives.

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[29] Alice Virginia Waldecker, "Administrative and Legislative Reforms in American Indian Relations, 1928–1934," unpublished masters thesis, Smith College, 1945, p. 60.

[30] *American Indian Life*, Bulletin 14, May 1929, pp. 13–14.

[31] Vera Connolly, "The End of the Road," *Good Housekeeping*, vol. 88, May 1929, pp. 44–45.

[32] *Congressional Record*, 71st Cong., 2d sess., January 1930, p. 1139.

The Meriam Report had recommended more and better doctors, more and better qualified nurses, clinics on all reservations, more emphasis on disease prevention, instruction in hygiene, collection of reliable vital statistics, and closer cooperation with State and local health agencies.[33] To make closer cooperation possible the act of February 15, 1929 ordered the Secretary of the Interior to allow State employees and agents to enter upon Indian lands "for the purpose of making inspection of health and educational conditions and enforcing sanitation and quarantine regulations or to enforce compulsory school attendance of Indian pupils. . . ." [34]

There was close cooperation between the Bureau and the Public Health Service during this administration. The recommendations of the Meriam Report were followed in relation to the improvement of personnel and facilities. Accurate collection and tabulation of vital statistics were given more attention. There was an effort to teach personal hygiene and disease prevention. There was progress in Federal-State cooperation to solve the Indian health problem.

In attempting to evaluate the progress made in relation to improvement of Indian health one might summarize by saying that Indian health conditions were improved but that there was still need for further improvement in regard to every recommendation made in the Meriam Report.[35]

PROGRESS IN EDUCATION

In education there was evidence of real success during the Rhoads administration. Personnel were upgraded until the staff was said to compare "favorably with the corresponding groups in such progressive and effective professional Government agencies as the Children's Bureau, the Bureau of Home Economics and the Office of Education in the Interior Department." [36] There was close cooperation between the Bureau and the States. Attendance at public schools was encouraged for Indian students whenever possible. The movement from boarding schools to day schools was encouraged where feasible. Inadequate food, overcrowding, and child labor were largely corrected in the boarding schools that remained.

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[33] *Meriam Report*, p. 270.

[34] *Federal Indian Law* (1958) *op. cit.*, p. 507. See also 45 Stat. 1185, 25 U.S.C. 231.

[35] *Senate Survey of Indian Affairs*, pt. 17, 1931, pp. 8419, 8175, 8444, 8261, 8079, 8799, 8528, 8160; pt. 23, 1932, p. 12877; pt. 30, 1934 p. 16458.

[36] Lewis Meriam, "Indian Education Moves Ahead," *The Survey*, vol. LXVI, June 1931, pp. 253–257.

EMPLOYMENT PROGRAM ATTEMPTED

An attempt was made to make vocational training more practical. To bridge the gap between learning and application, a new Guidance and Placement Division was created.[37] There was an appropriation of $50,000 in 1931 to supply means of securing remunerative employment. This was increased to $60,000 for fiscal 1932 and 1933. With employment agencies at Phoenix, Ariz. and Minneapolis, Minn., and a placement officer at Salt Lake City, 2,497 placements were made during 1931–1932. Nine hundred and ninety-five of these were classified as permanent. Indian Service placement activities were coordinated with those of some cities, States, and of the United States.[38] After such an auspicious beginning, the depression and non-Indian competition for available jobs brought a temporary curtailment of the experiment.

A MODERN EXTENSION PROGRAM

Having obtained the services of Dr. Earl Bates of Cornell University for one year to study and make recommendations in relation to extension work among the Indians, this program was reorganized and a new Division of Agricultural Extension and Industries was established. Under the leadership of agricultural specialist A. C. Cooley more up-to-date procedures were developed. The purpose of the new division was to render to the Indians "the kind of technical and practical assistance that will be helpful to them in becoming more self-supporting through their own efforts and thus more reliant." [39] Although, as the Senate Investigation Subcommittee discovered, all extension problems were not solved, this was the beginning of modern extension work in the Bureau.

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[37] Waldecker, *op. cit.*, p. 89.

[38] *Annual Report*, Commissioner of Indian Affairs, 1932, p. 15.

[39] *Congressional Record*, 71st Cong., 3d sess., March 1931, p. 7262.

FEDERAL-STATE COOPERATION

There had been Departmental and Bureau encouragement of closer Federal-State cooperation for several years prior to the Rhoads-Scattergood administration. Members of the Congress and State officials of California, Montana, and Wisconsin had expressed willingness to cooperate with the Bureau in relation to Indian health, education, and welfare particularly. Separate bills had been introduced for Federal cooperation with each of these States.[40]

In 1930, the Swing-Johnson bill (S. 3581, H.R. 9766) was introduced applying to all States with Indian population.[41] This had Departmental and Bureau endorsement. As explained by Senator Robert La Follette of Wisconsin its purpose was to allow the Secretary of the Interior "to enter into contractual relations with certain state agencies when the legislature of the State has passed an enabling act providing for the extension of those services to the Indians through the agency of the State Boards of health, education and so forth."[42]

The bill passed the Senate but failed to pass the House. Introduced in the next Congress it again passed the Senate but failed to be voted on in the House. Although action similar to this had been requested by the Department of the Interior, the Bureau, reformers, the Congress, the Meriam survey team, and others, over several years, the Congress failed to support these recommendations until 1934, when the Johnson-O'Malley Act was passed.[43] This legislation allowed contracts with States or Territories for the "education, medical attention, agricultural assistance, and social welfare," of Indians by qualified State or Territorial agencies.

BACKGROUND TO REORGANIZATION

As I interpret the words of John Collier, he felt that the Indian Reorganization Act was a bringing into legislative being and giving legal definition to what had been voiced by such studies as the Meriam survey and had "become verbalized into official utterances," but not given the support of the Congress, before the beginning of his own term as Commissioner of Indian Affairs.[44] In other words, I believe we will find, as we examine the Indian Reorganization Act, that it in part synthesized legislatively (as the Meriam study had documented verbally) the administrative strivings of the previous decade. It took the work of a trained propagandist and the opportunity of Franklin D. Roosevelt's new depression administration to get through the Congress what the reformers, the administrators and some members of the Congress themselves had been asking for during the previous decade. A few years later Collier was hard-put to get some of the same members of the Congress to admit they had any part in the creation of the "New Deal for the Indians."

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[40] "The States Aroused on Their Indian Problem," *American Indian Life*, Bulletin 11, December-February 1928, p. 4. See also *Funds Appropriated for Care and Relief of Indians Shall be Expended Through Certain Public Agencies of California, Wisconsin, and Montana: Hearings before the Indian Affairs Committee on S. 3020, S. 3611, and S. 6498* (Washington: 69th Cong., 2d sess., U. S. Senate, Indian Affairs Committee, February 10, 1927).

[41] *Congressional Record*, 71st Cong., 2d sess., 1930, pp. 3292, 3635.

[42] *Ibid.*, p. 8502.

[43] 48 Stat. 596. Also see 25 U.S.C. 452.

The Rhoads-Scattergood term in the Indian Office resulted eventually in greater contributions than could be seen at the end of their four years of service. The problems of the depression decreased the possibility of securing legislation and thus was unfortunate for the Rhoads-Scattergood Indian program as well as for the political reputation of President Hoover.

POST MORTEM ON ALLOTMENT

The Indians, of course, did not like the idea of having bits of their communal landholding taken for assignment to individual Indians, and of losing control of the remainder, which was to be made available to non-Indians.[45] The Government didn't enjoy much success in making farmers of Indians. After the loss of some 90 million acres of the land base needed for their support, the Indians still remained approximately where they were, but now often landless. Again, the policy worked for the non-Indians, for they did acquire Indian land and resources, but it had not worked particularly well in achieving the long range goals set by the Government for the Indians: assimilation and "civilization."

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[44] John Collier, "The Genesis and Philosophy of the Indian Reorganization Act," taken from *Indian Affairs and the Indian Reorganization Act: The Twenty Year Record*, edited by William H. Kelley, symposium, 52nd annual meeting, American Anthropological Association, Tucson, Ariz., December 30, 1953, pp. 4–5.

[45] D'Arcy McNickle, *op. cit.*, pp. 10–11.

CHAPTER SIX

TRIBAL REORGANIZATION

THE "NEW DEAL" FOR THE INDIANS

After the panic of 1929 a general depression swept the Nation. Many factories closed. Others cut production, reduced wages and dismissed workers. Bank failures rose into thousands by election time in 1932. Agricultural prices declined to 50 percent of their 1929 value. Surplus farm products accumulated in warehouses. Unemployed workers estimated at three million in 1930 had risen to about 12 million in 1932, when the employment program for the Indians was curtailed.

President Hoover at first took the traditional view that providing for relief was a problem for State governments and local communities. By the end of 1930 the financial resources of some of our wealthiest States and cities were virtually depleted. It became apparent that the national Government would have to step in with its resources to meet the situation. The last two years of the Hoover administration were devoted largely to developing means of fighting the depression.

It was against this background that John Collier took office as Commissioner of Indian Affairs in 1933. Personally involved in the Indian reform movement for ten years as the executive secretary of the Indian Defense Association, and for seven of those years as editor of the magazine *American Indian Life,* Collier brought a background of experience with Indian matters to the commissionership. He was to have 12 years in which to effect the reforms he had been advocating. This was an unprecedented term in the office.

As we examine the changes that occurred during the first years of the Collier administration, it is important to keep the situation that prevailed in the Nation in mind. It would be difficult to imagine a more advantageous time for Indians to remain on the reservation and practice subsistence farming and livestock raising.[1] With no demand for the unallotted and unoccupied lands formerly a part of the reservations, why not return them to the Indians? What better time could have been selected to stop the allotment processes? This certainly would not have been the time to suggest a termination or a relocation program, either of which would have added to the strain on State and local government.[2]

It is interesting, too, that those Indians who had started the assimilation process by leaving the reservations and becoming wage earners were hurt most by the depression, while those living in permanent villages or settlements and who depended on subsistence farming for a livelihood were hurt least.[3]

Having been a leading critic of Indian Administration for 11 years, John Collier was well informed in regard to what had been recommended to the Congress by the Burke and Rhoads administrations. Where they had failed he would succeed. He had encouraged Secretary Work to engage the Institute for Government Research to undertake the study of Indian administration, and knew its recommendations well.[4]

BEGINNINGS

In an article titled "The Details of the Reorganization on Which the Indians Wait," Collier suggested some of the reforms that needed implementation including: the encouragement of tribes to form councils to manage community affairs, legislation enabling Indian tribes to form corporations for business purposes, and the creation of a revolving fund to supply credit to Indians. These were not new ideas, but in this article, published three months before his appointment, he projected a program that would see ideas translated into action.[5]

William F. Zimmerman, Jr., was appointed assistant commissioner. Let him describe the beginnings of the Collier era:

> Even after twenty-five years it is still easy to relive the first

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[1] Theodore W. Taylor, "Regional Organization of the Bureau of Indian Affairs," doctoral dissertation, Harvard, 1959, pp. 50–51.

[2] *Ibid.*

[3] Dale, *op. cit.*, p. 215.

[4] Downes, *op. cit.*, p. 341.

[5] John Collier, "Details of the Reorganization on Which the Indians Wait," *American Indian Life*, Bulletin 21, January 1933, pp. 14–21.

months of the new administration. There were endless meetings, inside and outside of working hours. In the evenings we sometimes met at Collier's apartment which was so sparsely furnished that some would sit on the floor. On a bright Sunday morning the meeting might be on a grassy point in Potomac Park. There was zest and fun in those meetings, but also always a sense of urgency, of fighting time, of doing things now, before it should be too late; but there was always a feeling of accomplishment.

Very soon a new voice was strongly heard in Indian meetings. Felix Cohen did not come to Washington to make himself the foremost student and exponent of Indian law; he became that almost by accident. Yet he was soon heard not only on legal problem, as in drafting the original Wheeler-Howard bill, but also on the countless issues which involved both law and policy. Day after day, month after month, his thoughts and his voice kept the bureaucrats in line. Never were they allowed to lose sight of the ultimate objectives.

Another powerful stimulus was Harold Ickes. In those first months before the tentacles of bureaucracy took hold, it was almost a daily routine for Mr. Collier and the Assistant Commissioner, each morning before nine, to dash up two flights of stairs to the Secretary's office and tell him quickly about the newest problems or get an answer to a vexing question. By the time Mr. Ickes became adequately insulated, the new bureaucrats, too, knew more about protocol and procedure, but they lost the fresh, friendly informality.[6]

THE FIRST YEAR

This new administrative team acted immediately to accelerate the Rhoads program of transferring children from the boarding schools to community day schools. These day schools were also to serve as social centers involving all age groups and the entire population. Again following earlier precedents, the remaining boarding schools became institutions for special classes of Indian children having problems best answered by such a program.

Following precedents from the previous decade, the Commissioner not only encouraged the practice of Indian customs and religion, but gave emphasis to his encouragement by issuing this statement:

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[6] William Zimmerman, Jr., "The Role of the Bureau of Indian Affairs Since 1933," *The Annals*, May 1957, pp. 31–32.

> No interference with Indian religious life or expression will hereafter be tolerated. The cultural history of Indians is in all respects to be considered equal to that of any non-Indian group. And it is desirable that Indians be bilingual—fluent and literate in the English language, and fluent in their vital, beautiful, and efficient native languages. The Indian arts are to be prized, nourished and honored.[7]

He was careful to point out that this did not mean that there was "any intention of interfering unduly with intelligent and devoted mission effort on the part of Catholic or Protestant workers in the Indian field."[8]

The intention to provide employment for Indians in the Indian Service was early accented by the appointment of Wade Crawford, himself a Klamath Indian, as superintendent of the Klamath Indian Reservation. By the end of June 1934, there were 489 new appointments of Indians to the Indian Service. There were then 5,325 persons holding classified positions in the Service of whom 1,785 were Indians.[9]

Under an act of the Congress passed March 31, 1933, the Civilian Conservation Corps (CCC) was established. With President Franklin D. Roosevelt's approval 72 work camps in 15 western States were assigned to the Indians, to be administered by the Bureau. The Indian counterpart of the CCC was first referred to as Emergency Conservation Work (ECW). Almost half of the available openings were filled by Indians in November 1933. Half of the supervisors were Indians by June 1934.[10] The Commissioner's experience with the use of Indians on these projects gave him confidence in the Indians willingness to work and ability to work together.

The spree of issuing Force-Patents that began in 1917 was slowed down in 1920. Gradually during the 1920's more restrictions were placed on the issuance of fee patents. During 1928 and after, it was recommended that the loss of Indian lands be halted. In August of 1933 a letter went out from Secretary Harold L. Ickes to all superintendents stopping further sales of Indian allotments and recommending against further issuance of fee patents.[11]

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[7] *Annual Report*, Commissioner of Indian Affairs, 1934, p. 90.

[8] *Ibid.*

[9] *Ibid.*, p. 114.

[10] *Ibid.*, pp. 102–103.

Even before the Indian Reorganization Act was a legislative reality the patterns that Collier would follow began to take shape. There was evidence during his first year in office that Commissioner Collier was able to reach decisions and act upon them without delay.

On April 16, 1934, the Congress at last enacted legislation providing for Federal-State cooperation in Indian affairs. This had been requested by the Bureau and by such States as California, Montana, and Wisconsin for almost a decade. The Johnson-O'Malley Act allowed the Secretary of the Interior to enter into contracts with States, Territories and private institutions "for the education, medical attention, agricultural assistance, and social welfare, including relief of distress of Indians in each State or Territory, through the qualified agencies of each State or Territory." [12]

By an act of May 21, 1934, certain discriminatory Federal laws of early origin allowing military and civil control within reservation boundaries and hampering freedom of speech were repealed. The Indian liquor law and the law prohibiting the sale of firearms to Indians remained in force.[13]

THE "NEW DEAL" ESTABLISHMENT

June 18, 1934, by passing the Indian Reorganization Act, the Congress at last recognized what had been discussed and recommended by reformers, research studies, and the Bureau of Indian Affairs itself during the previous decade. More unique than the legislation was the procedure followed in preparing for implementation of the original bill.

It was recommended that the Indians themselves be allowed to express their opinion in relation to the proposed legislation, and that finally they should have the privilege of voting on whether they would choose to accept the legislation on behalf of their tribes or not. To make this possible a series of "congresses of Indians" were held in areas where Indian population was concentrated.[14]

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[11] *Ibid.*, 1933, p. 100.

[12] *Ibid.*, 1934, pp. 88–89.

[13] *Ibid.*, 1935, pp. 152–153.

The parts of the proposed bill were read and explained to those present. Questions were asked for, and the Indians were asked to give their views. The representatives of the various Indian tribes were not anxious to commit themselves or the people they represented. They wanted to listen, then the message could be carried to the people at home. There time would be found to talk. Decisions would come after the talks.[15]

While these congresses were being held with the Indians in their country, extensive hearings were in progress before the Indian committees in the Congress. Mixed feelings were expressed. No one, including Collier, was certain that this legislation offered the best possible program for the Indians. At one point during the hearings he stated, "We feel profoundly that something must be done, though we are not prepared to assert that this is the bill." [16]

Committee members objected to various specific items in the bills, but beyond suggesting item deletions they seemed unable to improve the general approach to the problem. One of the major concerns expressed during the hearings was whether the attempt to reorganize tribes whose membership had largely made the external adjustment to life in non-Indian communities was a step forward or backward.[17] Scholarly studies of the Collier administration still shy away from conclusions in regard to this.

The Indian Rights Association felt that a serious weakness of the bill was the fact that it would treat all Indian groups alike, although their differences were well known. While Collier expressed the feeling that the enactment of the measure would gradually lead to the assumption by tribal groups of their own community and resource management problems, the Indian Rights Association felt that the Secretary of the Interior and the Commissioner of Indian Affairs were, by retaining too much of the real governmental authority, thereby allowing the Indians to accomplish little actual "self-government." [18]

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[14] John Collier, *Indians of the Americas* (New York: Mentor Book edition, 1957), p. 157.

[15] Minutes of the Plains Congress, Rapid City, S. Dak., Lawrence, Kan., March 2–5, 1934, pp. 73–108.

[16] *To Grant to Indians Living Under Federal Tutelage the Freedom to Organize for Purposes of Local Self-Government and Economic Enterprises: Hearings Before the Committee on Indian Affairs on S. 2755 and S. 3645* (Washington: 73rd Cong., 2d sess., U. S. Senate, Committee on Indian Affairs, 1934), p. 77. Hereinafter referred to as *Indians Living Under Federal Tutelage*, 1934.

[17] *Ibid.*

Actually about the only part of the bill that received general acceptance was the section dealing with education. Individual Indians and committee members expressed themselves against the provisions concerning the reversion of land from the individual to the tribal estate. The section asking for the creation of a court of Indian affairs also drew heavy criticism.[19] Collier was ready to compromise when he saw that criticism of a particular section might endanger the entire bill.

A questionnaire was sent to some of the Nation's leading anthropologists asking whether they felt the Indian people were able to benefit from and progress under the provisions set forth in the bill. The responses to Commissioner Collier's inquiry were generally in the affirmative.[20]

There were occasions when it appeared that the entire bill would be lost or tabled for an indefinite period awaiting further study. Secretary Ickes and President Roosevelt both gave personal support to the measure at critical times. During his first term particularly the President had very strong congressional support. Without this complete executive backing of what was presented as an administration measure, it is believed that the bill would have been seriously crippled or would have failed to be enacted.

Senator King of Utah acknowledged a fear that the bill as written "would perpetuate for an indefinite period an expensive and bureaucratic organization which in its operation would lead to enervate rather than elevate the Indians." [21] This sentiment proved prophetic in regard to future congressional action in relation to programs that resulted from the legislation.

THE "NEW DEAL" AND THE LEARNED CRITICS

Various studies have discussed the failure of the Bureau of Indian Affairs to actually help the Indian groups to achieve self-government. Again, they do not find fault with the Indian Reorganization Act (IRA) in theory, but in its practical application by Bureau personnel and in the failure of the Indian groups themselves to respond to the opportunities available to them. Let us summarize some of the criticisms:

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[18] *Readjustment of Indian Affairs: Hearings Before the Committee on Indian Affairs on H. R. 7902* (Washington: U. S. House of Representatives, Committee on Indian Affairs, 1934), pp. 234–235; also see *Indians Living Under Federal Tutelage*, 1934, pp. 219–230.

[19] *Congressional Record*, 73d Cong., 2d sess., 1934, p. 9268.

[20] *Readjustment of Indian Affairs*, House, 1934, pp. 361–370.

[21] *Congressional Record*, 73d Cong., 2d sess., 1934, p. 9268.

1. The IRA was put into effect too rapidly. Neither the Congress nor the Indians were adequately informed concerning it nor prepared for it.
2. Bureau personnel needed better training for application of provisions contained in IRA, some of which were quite foreign to their past experience and to their personal philosophy concerning the Indians.
3. Constitutions were not properly prepared for particular groups. The philosophy of the IRA itself was violated in that the Indians did not play a truly significant part in preparing these documents (lack of qualified Bureau personnel). As a result the meaning of these instruments of government was often quite foreign to them.
4. Minority groups dislike being different from the majority, even if what they have, or are, is better than the majority.
5. The IRA was conceived by the Indian Service for the Indians. The community life patterns of some Indian tribes are not compatible with its principles. Programing must be done at the community level with Indian participation.
6. Probably because of administrative difficulties, some of the educational features of the IRA were not practiced, such as tribal review of Bureau budgets.
7. Promise and performance—plans and achievements tend to be very different.[22]

These criticisms do not suggest to me that the theory of Indian self-government or of group responsibility and group privilege to make decisions without Bureau coaching or pressure is wrong. It does illustrate, however, the difficulties involved in encouraging Indian tribes, for which the Bureau has administrative responsibility, to pursue long-range goals against a constantly changing political background involving new leadership in the Bureau, new congressional committee memberships, and accompanying shifts in local political pressures. It is difficult for legislators or administrators to philosophically accept the fact that culture change is likely to be a matter not of years but of generations, when each annual report requires an accounting of accomplishments.

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[22] Scudder Mekeel, "An Appraisal of the Indian Reorganization Act," *American Anthropologist*, vol. 46, 1944, pp. 209–217; "Collier Replies to Mekeel," *American Anthropologist*, vol. 46, 1933, pp. 422–426; Clyde Kluckhohn and Robert Hackenberg, "Social Science Principles and the Indian Reorganization Act," from *IRA: Twenty Year Record*, edited by Kelley, pp. 29–34.

PROGRESS UNDER THE "NEW DEAL" FOR INDIANS

Commissioner Collier and his staff made a genuine effort to acquaint themselves with methods of governing native peoples.[23] In various documents reference is found to Indian affairs in Canada, Mexico, and other of the Latin American Republics. The experience of the United States Army with the natives of the Philippine Islands was gleaned for ideas.[24] Social scientists were called upon for advice and to act as consultants in particular cases.

Collier tried, particularly at the beginning of his administration, to effect State and local participation with the Nation and the Indian groups to work out local problems in the local area on a cooperative multilateral basis. He had been personally advocating Johnson-O'Malley type legislation for a decade before that act was passed.[25] The depression years were not an ideal time to convince States and counties that they should take on new problems that would cost money. They were having difficulty making community "ends" meet. If the Federal Government wanted a State to give a service, funds would have to be forthcoming.

There was apparently some pressure on the Bureau to try to guide the Indians to provide for themselves as much as possible on the reservations, rather than compete with the already too-scarce positions in the non-Indian world. In addition to the CCC, special Federal work projects were provided for Indians. Collier expressed some concern about introducing a wage economy on reservations that could not furnish a permanent opportunity for wage work. As he put it, "After the depression is over and the emergency grants cease, what will happen to the now-working Indian?" [26]

His answer was to develop the reservation resources to the highest potential. Where possible, local industries were to be introduced. The encouragement of Indian arts and crafts fit naturally into the program. Indians could gradually shift from relief work to subsistence farming, native crafts, and the establishment of reservation industries.[27]

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[23] Collier, *Indians of the Americas*, pp. 167–168.

[24] Memorandum from Fitzsimmons to Collier, October 20, 1936, Personal Files of John Collier, National Archives and Records Service, Washington, D. C.

[25] *Congressional Record*, 71st Cong., 2d sess., 1930, pp. 3492, 3635.

[26] *Annual Report*, Commissioner of Indian Affairs, 1935, p. 118.

The Commissioner was reluctant to inflict this emergency wage work on the Hopi, who had lived through good years and lean years for centuries before the then current depression.[28] It was apparent to Collier that the relief programs gave most reservation Indians a better life than they had previously experienced. Better than they would be able to maintain with their available resources. He feared the adjustment that would necessarily have to come.

During the early years of the administration an effort was made to decentralize administration. The locale for decision making was to be where possible among the Indians involved in the decision. The tribes were encouraged to govern themselves and manage their own business affairs. Reorganization extended to the tribal courts. Judges were to be elected rather than appointed by reservation superintendents. Certain controls over decisions of the courts formerly held by the superintendents were removed. The forms used in local courts in the various States were normally followed.[29]

Recommendations that a special court be created to allow a settlement of long-standing Indian claims had begun as early as 1923. Repeated periodically, the idea was stressed in the Meriam Report in 1928. Commissioner Rhoads had recommended action during his administration. The enactment of legislation to create an Indian Claims Commission was a basic part of Commissioner Collier's outlined program. Hearings were held on a bill for this purpose June 10 and 17, 1935.[30] The failure to secure passage of this legislation was a major defeat of Collier's legislative program. This legislation was not achieved until 1946, when the Bureau was under the administrative direction of Commissioner William A. Brophy.

AN EVALUATION

As seen at the end of John Collier's first four years in office, there had been five major accomplishments in the realm of change in the Government's Indian policy:

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[27] *Ibid.*

[28] Letter from John Collier to Seth Wilson, Superintendent, Hopi Agency, October 18, 1939, Federal Records Center, Denver, Colo.

[29] *Indians at Work* (February 1, 1936), pp. 34–35.

[30] *Indian Claims Commission Act (To Create Indian Claims Commission, To Provide for Powers, Duties, and Functions Thereof, and for Other Purposes): Hearings before the Indian Affairs Committtee on S. 2731* (Washington: 74th Cong., 1st sess., U. S. Senate, Indian Affairs Committee, June 10 and 17, 1935).

1. The Indian Reorganization Act of 1934, with its Alaska and Oklahoma supplements of 1936.
2. The attack on problems of physical conservation; of land, soil, water, and vegetation.
3. An over-all endeavor to cause Indians to go to work.
4. Stoppage of Indian land losses and restoration of some of the lands which had been lost. Also the development of a credit system based on the principles of a credit union which would make possible the full utilization of all Indian lands.
5. A shift in educational goals from white-collar to agrarian ideals, from routine grammar school to community school ideals, from a ban on native Indian culture to its encouragement and utilization. At the same time a new emphasis was put on technical and professional training.[31]

A majority of the Indians of the United States and the natives of Alaska had either accepted the Indian Reorganization Act or had been blanketed in by the Oklahoma and Alaska Acts of 1936. Many that had not accepted it received benefits from it. Some, such as the Navajo, did not always think of them as benefits.

It was reported that the total land holdings of the Indians of the United States had been increased 2,100,000 acres between 1935 and 1937.[32] While further purchases were planned, it seemed evident that other solutions would be necessary for cases such as the Navajo Reservation with its rapidly increasing population.

Although bitter opposition was developing to the Reorganization program, it was apparent by 1937 that progress was occurring in various ways: acquisition of additional lands, irrigation works, checking of erosion, further use of Indian resources by Indians, new homes, schools, hospitals, roads, trails, and bridges. Federal work projects had been largely responsible for many of the improvements in physical facilities. There were improved medical resources, a new attack on trachoma that by 1939 saw vast improvement of treatment, and by 1943 a virtual end to consideration of this disease as a major problem. The formation of the Arts and Crafts Board with its accomplishments, the continuing and enlargement on cooperation with other Government agencies, such as the Department of Agriculture, the Public Health Service, and the Forest

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[31] Zimmerman, "The Role of the Bureau of Indian Affairs Since 1933," *op. cit.*, p. 32.

[32] *Indians at Work*, December 1, 1936, pp. 17–19.

Service, all these and other accomplishments denote the vitality of the program.[33]

REJECTION OF COLLIER'S PROGRAM

Charges of communism and anti-religion plagued the Collier program from the beginning. These were to increase as the war approached and the "American First" philosophy developed as a reaction against threats that we might become involved in the extremes of fascism, nazism, and communism. The dissatisfaction expressed by particular Indians, by groups such as the American Indian Federation, and localized negative opinions such as were prevalent in New York and Oklahoma were played up to make it appear that Indians generally were dissatisfied with the trend of Bureau activities.[34]

As a closing paragraph in his annual report for 1934, Collier expressed gratitude for the cooperation of various Indian welfare organizations, specifically naming the General Federation of Women's Clubs, the American Indian Defense Association, Inc., the National Association on Indian Affairs, and the Indian Rights Association. He stated, "The Indian Service, for its continuing improvement, is greatly dependent on such help and criticism from unofficial and wholly independent agencies." [35] Some of these and other Indian welfare groups were to become his critics as he had been, and continued to be, a critic of earlier Indian Bureau administrators.

The failure of the Navajo tribe with its large population to come under the IRA was a disappointment to Commissioner Collier. The difficulties encountered in relation to the livestock reduction programs on the Navajo reservation probably brought Collier and the IRA as much bad publicity as any action affecting an Indian tribe. As publicized, it appeared to be the antithesis of what Collier and the program he had sponsored stood for.

In Navajo country it was reported that certain families controlled an inordinate percentage of the total reservation range resources. If this was true the situation was in need of correction. To accomplish this it was necessary to require a re-division of range areas. To improve the carrying capacity of the range itself it was necessary temporarily to reduce the total number of animal units grazed. The program was gradually accomplished, but only by using strong, unpopular, and what often seemed arbitrary measures.

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[33] Pertinent issues of *Indians at Work* give the best running account of the routine activities of the period. The annual reports summarize the more important events.

[34] The *New York Times*, *Nation*, *New Republic*, *Christian Century*, among other publications give good coverage to Indian affairs during this period.

[35] *Annual Report*, Commissioner of Indian Affairs, 1934, p. 120

The Phelps-Stokes Fund Inquiry of 1939, published under the title *The Navajo Indian Problem*,[36] although in itself objective and entirely sympathetic to the purposes of the Navajo stock reduction program, furnished less objective critics with a source of information to be used against Collier and the Indian program. The operation of the Navajo stock reduction program may well be contrasted to that in effect at Laguna and Acoma, where, as the philosophy of the IRA would suggest should be the case, the Indian councils participated more fully in decision making and, therefore, cooperated in the programs as they were developed.[37]

As Commissioner Collier experienced the thrusts of his critics and was faced with the reality of implementing the theory of Indian self-government and group responsibility with the aid of often unwilling Indians and untrained and always inadequate personnel, a different tone was evident in his annual reports. During his first four years he might be typified as a crusader; later it was necessary for him to become a defender, and a protector, as his program was subjected to attack.

CONGRESSIONAL CRITICISM

During the first New Deal administration cooperation between the Indian Bureau and the congressional committees over-balanced conflict; however, even late in this period signs of growing opposition, particularly from the senior members of the Senate Indian Affairs Committee, began to appear. [38] As an evidence of this the Indian Claims Commission bill, a piece of legislation basic to the program, failed to receive adequate consideration.

Beginning in 1937, and especially after the congressional fight with President Roosevelt over the court plan in which Senator

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[36] *The Navajo Indian Problem: An Inquiry Sponsored by the Phelps-Stokes Fund* (New York: Phelps-Stokes Fund, 1939).

[37] Jay B. Nash, Oliver LaFarge, and W. Carson Ryan, *The New Day for the Indians; A Survey of the Working of the Indian Reorganization Act* (New York: Academy Press, 1938), pp. 22–23.

[38] Freeman, *op. cit.*, pp. 467–468.

Wheeler was personally involved, the Indian Bureau, and Collier personally, were subjected to bitter attacks on policies, organization, and leadership. Attempts to secure passage of important legislation, and even the routine appearance before committees to secure the passage of special bills, resulted in conflict with individual legislators.[39]

Early in 1937 the struggle between Wheeler and Collier was joined in the columns of the *New York Times*. March 4, 1937, a letter went out from the Commissioner's office in Washington explaining the matter to Bureau personnel.[40]

Collier refers to two groups that were fighting the IRA. The first group included those who sought to acquire for themselves, or for companies they represented, the use of, or title to Indian lands and resources. The guardianship or trusteeship concept assumes that the Bureau of Indian Affairs, *supported by the Congress and by the Department of which it is a part*, will protect Indian lands and resources. However, local politics become involved, and sometimes the members of the Congress support the cause of local constituents in a contest with the Bureau; even when the rights of the Indians, which the Bureau is attempting to support, are a matter of legal record. Contests may also develop within the Interior Department. I believe Collier was usually morally and legally correct in his efforts to protect Indian lands and resources.

The second group he mentions includes Indian welfare groups, religious groups, members of the Congress, and individuals in the general population who disliked the theory, and even more the attempt to effect the theory, that Indian groups should be encouraged, sponsored, or supported by public funds in the development of a cultural system that they (the critics) considered alien to the prevailing ideology in the United States. This was not an action against Indian self-government as such, as long as the Indian group government followed patterns similar to those of other local governments of the United States. It was related more closely to religious and cultural values, to communal ideas and practices, the Indian-ness in Indians that Collier often referred to. The Indian right to this, in the mind of John Collier, was basic. If there was any one thing that was the guiding influence of the IRA during the

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[39] *Ibid.*, p. 468.

[40] Letter from John Collier to Bureau Personnel, March 4, 1937, Washington, D. C., Federal Records Center, Denver, Colo.

Collier period it was this. I don't think the Congress ever really "bought" it.

There is much that affects policy that does not appear on the surface. A factor that strongly influenced congressional opinion on Indian affairs during the late 1930's and 1940's was the published reports of the Senate Committee that, since 1928, had been conducting a survey of Indian affairs. The effect of this study on congressional attitude toward Indian affairs deserves assessment.

SENATE SURVEY AND CONGRESSIONAL CRITICISM

The Senate *Survey of Conditions of the Indians of the United States* began in 1928 and ended in 1943, with a supplemental report in 1944. During this period the Senate Indian Affairs committee conducting the survey had Senators Lynn Frazier of North Dakota, Burton K. Wheeler of Montana, and Elmer Thomas of Oklahoma serve as chairmen consecutively in that order.

The membership of the committee included, in addition to the three mentioned above, Senators Robert M. LaFollette of Wisconsin, W. B. Pine of Oklahoma, Joseph C. O'Mahoney of Wyoming, Henry F. Ashurst of Arizona, Carl A. Hatch of New Mexico, W. J. Bulow of South Dakota, Dennis Chavez of New Mexico, and some others who served briefly. In addition to the regular members the senior Senator of the State concerned with particular hearings became a member ex officio. During the entire period hearings were held in many of the States having a significant Indian population.

The names of some of the Bureau's critics during the 1937 to 1945 period are found in the list of Senators given above. These are two of the important results of the survey:

1. The Senators were so overwhelmed by the problems they observed that they wanted to get rid of the system, which to them, seemed to mean to get rid of the Bureau.
2. They had secured enough information over an extended period, from enough Indians and others working with Indians to make them feel they knew the problems of Indian affairs as well as the Bureau officials. They felt they were prepared to make not only policy but also administrative decisions.

The participants in the survey, in addition to the Senators and Bureau representatives from the Washington office, included (1) the field force of the Indian Service located in the various jurisdictions; (2) representatives of Indian welfare groups; (3) other citizen groups; (4) individual Indians and Indian leaders; (5) licensed Indian traders; and (6) private citizens who had some familiarity with conditions among Indians in a particular area. By 1933 the published report amounted to over 15,000 pages. By 1943 it had grown to over 23,000 pages.

As one examines the report, it is amazing how similar the complaints of Indians are everywhere. Their requests were often related to the need for settlement of claims against the Federal Government and the need to improve existing situations related to health, education, welfare, Bureau personnel, misuse or failure to be informed of the use of funds, need for employment, etc., on ad infinitum. Sometimes the complaints canceled each other out: one Indian would complain that the Bureau didn't hire enough Indians and another that the ones employed on their reservation were untrained and inefficient. The prosperous and satisfied Indians usually did not appear unless specifically called to testify. Tribal leaders felt a responsibility to present the viewpoint of their people.

June 11, 1943, Senate Report No. 310, a "Partial Report" was submitted by Senator Thomas of Oklahoma, from the Committee on Indian Affairs, with a heading "Analysis of the Statement of the Commissioner of Indian Affairs in Justification of Appropriations for 1944 and the Liquidation of the Indian Bureau." [41] The report proceeded to dismember the Bureau of Indian Affairs in its parts and programs. This brought outspoken protests from Secretary Ickes and Commissioner Collier intimating that the report was the work of the research staff of the Senate Committee on Indian Affairs and surely could not be the sentiment of Senator Thomas and certain other committee members.[42]

May 2, 1944, a "Supplemental Report" was issued as a "clarification of Partial Report No. 310" which tended to soften the effect of the earlier report but left no uncertainty that in the minds of the Senators concerned congressional sentiments on Indian affairs had changed.[43] (The change in attitude was apparent by 1937. These Senate committee reports were now putting this change of attitude into words that left no question about intent.)

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[41] *Survey of Conditions of Indian Affairs, Partial Report* (Washington: 78th Cong., 2d sess., U. S. Senate, June 11, 1943), Report No. 310.

[42] John Collier, letter to Senator Elmer Thomas, July 1, 1943, Federal Records Center, Denver Colo., and Harold L. Ikes, letter to Senator Elmer Thomas, July 6, 1943, Federal Records Center, Denver, Colo

In the meantime Commissioner Collier found himself in such serious trouble with the Congress that his assistants began to represent the Bureau when it was necessary to appear before committees.[44] In the early 1940's funds for the New Deal economic programs for Indians were cut. With the United States involved in World War II these emergency economic programs were eliminated completely.

As the struggle in Europe developed in the late 1930's and as the Nation was involved with World War II in the early 1940's, more and more of the time of the President and his Cabinet was devoted to international affairs, national preparation, and then the war itself. It was no longer possible for either Secretary Ickes or President Roosevelt to give Indian affairs the attention and Collier the personal support he received in 1933 and 1934.

In 1942, because of the war emergency, the Bureau of Indian Affairs was moved to Chicago to remain for the duration. At a distance, it was not possible to be as effective in securing necessary congressional support The Bureau suffered a loss in qualified personnel during the war as well as loss of funds to support programs. All of these factors combined to make the Commissioner's task more difficult.

THE HOUSE INVESTIGATION

Not entirely satisfied with the Senate Committee's investigation and reports, the House adopted a resolution in 1944 authorizing a House investigation of Indian affairs. The measure was sponsored by Congressman Karl E. Mundt (South Dakota), with some suggestions from Collier, and supported by members of the Congress from other Indian States. An evaluation of the testimony of Indians appearing before the House investigation subcommittee indicated that "of sixty-two persons who gave a clearly recognizable opinion, on the working of the Indian Reorganization Act, fourteen very definitely favored the legislation, forty-five thought the act should be repealed and three thought it could work under certain favorable circumstances."[45] The possibility that a greater number of discontented than satisfied Indians would appear at the hearings should be taken into consideration. Joseph Bruner, president of the American Indian Federation which had fought the IRA since its inception because it was thought to be un-American made the following statement at the hearings that is indicative of one type of recurring complaint:

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[43] *Senate Survey of Indian Affairs, Supplemental Report*, May 2, 1944.

[44] Freeman, *op. cit.*, p. 494.

> During the past 10 years I have been president of the American Indian Federation, a national organization which was formed for the purpose of opposing the passage and approval of the Wheeler-Howard bill then pending in Congress, for the reason that this bill provided for communistic and un-American activities and governmental policies that were in principle communistic, subversive, and dangerous to our Nation, not only among the Indians, but all other Americans.
>
> The Wheeler-Howard Act was conceived and sponsored by American Civil Liberties Union, a communistic organization with headquarters in New York City, although the Wheeler-Howard Act did not apply to Oklahoma Indians, it was followed later by the Thomas-Rogers Act which provided that the provisions in the Wheeler-Howard Act should apply to Oklahoma Indians. Our protest was ignored and the bill was passed and approved by the President, but we have continued to oppose the Indian Bureau program authorized by this act of Congress. We believe the same to be a dangerous, Christ-mocking, communistic aiding, subversive set up.[46]

The study of the House committee, or Mundt report, took the inadequacies of the Indian Reorganization Act into consideration, as well as the defects in its administration by the Bureau of Indian Affairs. To correct these defects and inadequacies, some very specific recommendations were made that called for definite action that would effect policy.[47]

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[45] Merlyn C. Sykes, "A History of the Attempts of the United States Government to Re-Establish Self-Government Among the Indian Tribes, 1934–1949," master's thesis, Bowling Green State University, August, 1950, p. 78.

[46] *A Bill to Authorize and Direct and Conduct an Investigation to Determine Whether the Changed Status of the Indian Requires a Revision of the Laws and Regulations Affecting the American Indian: Hearings in the Field Pursuant to H. Res. 166* (Washington: U. S. House of Representatives, Indian Affairs Committee, 1947), pt. 3, p. 1054.

[47] *Ibid.*, the entire report.

To summarize, the members of both houses of the Congress by 1944 had reached about the same basic conclusions:

1. They did not want the special status for Indians to be unduly prolonged. They apparently sincerely felt the Bureau under Collier had been "dragging its feet." They seemed to ask: Why hadn't more of the tribes advanced further with self-government and managing their own business affairs as their constitutions and charters would allow?
2. They were concerned with the cost of administering Indian Affairs under the IRA and the possibility that they might be building up in the Bureau an expensive machine that would tend to perpetuate itself indefinitely.

The relations between Commissioner Collier and the House Indian Affairs Committee were quite satisfactory in 1944. Before the end of the year, however, it became apparent that the already bad relations with the Senate committee and with the House Appropriations subcommittee were becoming worse and that the Bureau's programs would suffer unless Collier resigned.[48]

BUREAU ADMINISTRATION, 1943–44

In the fall of 1944, an article by Scudder Mekeel appeared on the Indian as a minority group. I quote from it here because it points out congressional attitude toward what we would now identify as termination sentiment as it existed during 1943 and 1944 (underlining mine):

> Regardless of class or region, our collective guilt as a Nation because of our past treatment of the Indian has seriously prevented an objective attitude toward him. Such guilt reinforces a sentimental viewpoint and helps maintain a sizeable budget for the Office of Indian Affairs in Congress, but it does not lead to a solution of the fundamental problems involved. The "hard-boiled" approach has just cropped up in Congress. The Indians ought to be turned loose immediately even if it means starvation for large numbers. Neither of these attitudes is realistic.
>
> The Indian problem must be viewed objectively in its social and economic terms. For these folk people have ways of life which are radically different from ours. Their cultures must

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[48] Freeman, *op. cit.*, pp. 494, 510–511.

> be thoroughly understood so that the differences may be constructively used in administration. The close kinship groups, the natural communities, and other social groupings are still of binding importance in the majority of Reservation societies. Both misssionary and Government have fought these institutions as hindrances to progress. Only recently have we seen that they can be potent tools in the re-establishment of morale and in the successful initiation of many programs which have previously failed.
>
> There is no question but that drastic changes in the mode of living were necessary for most American Indian tribes. They had to meet changed conditions. Recently a new and more constructive policy which seeks to reorganize Reservation societies on an economically sound basis has been initiated. Whether it can be carried through to success remains to be seen. But certainly this is not time to abandon the whole effort.[49]

In Circular Number 3537, November 14, 1943, Commissioner Collier refers to Circular Number 3514, which was made the subject of a series of regional conferences and called for the preparation of basic programs for each tribe, band, or group. These programs were to include the following:

> 1. An inventory of tribal resources.
> 2. An appraisal of agency services.
> 3. An estimate of future tribal needs.
> 4. A long-term plan for preserving tribal resources and for adapting them to meet tribal needs.
> 5. A statement outlining how services now rendered by the agency might be perpetuated (a) by other agencies, (b) through the efforts of the Indians themselves.
>
> These objectives should facilitate the Federal Government in dispatching its obligations to the Indian by (a) making it possible for him to attain economic independence by offering him an opportunity to acquire the fundamental necessities of life and (b) by according him political equality by making

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[49] Scudder Mekeel, "The American Indian as a Minority Group Problem," *The American Indian*, vol. 2, no. 1, Fall, 1944, p. 11.

> available to him the privileges enjoyed by other elements of our population.[50]

In various forms the termination sentiment enunciated by the Congress in 1953 began to be included in programs during 1943–44. Congressional control of the purse strings has a way of bringing executive agencies into line.

THE NATIONAL CONGRESS OF AMERICAN INDIANS

On November 15, 1944, delegates from 27 States representing more than 50 tribes met at Denver, Colo., to effect the organization of the National Congress of American Indians. The preamble to the Constitution of the Congress stated these purposes: "to enlighten the public, preserve Indian cultural values, seek an equitable adjustment of tribal affairs, and secure and preserve their rights under treaties." [51]

Judge N. B. Johnson, himself a Cherokee Indian from Oklahoma and a charter member, gave these reasons why such an organization was imperative (underlining mine):

> Jurisdiction over Indians reposes in the U. S. Congress, with a federal agency to administer the laws passed by it. Indian affairs in comparison to national affairs, are small indeed. Few men in Congress have the time to make a thorough study of the needs and the desires of the Indian people. The few who do seriously study these matters are generally lost in the great storms and struggles which fall upon Congress.
>
> The Indian Service, as the administrative agency, is not always in the best position to influence Congressional policy. There are times when this federal agency is under fire by the public or by Congress. On such occasions, the Indian Service is often partisan and its recommendations must be viewed with skepticism by the Indians.
>
> Thus in moments of crises Indian tribes and the Indian people are generally left without an effective champion.
>
> The Federal Government has failed again and again in its

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[50] Reservation Program, Part II—Overall Plan, United Pueblos Agency, March 1944, p. i.

[51] "The National Congress of American Indians," *The American Indian*, vol. 3, no. 8, summer 1946, p. 3.

> dealings with the Indians because there has not been any leadership among the Indians, or such leadership was negative and effective only in resisting the Federal policy. Indian leadership should contribute to the formulation of Federal policy. It should take the leading part in inquiring into needs of Indians and of making those needs vocal. Such leadership would perform an invaluable service.[52]

JOHN COLLIER, 1933–45

The 12 years under Collier was an eventful period. Not only because the Congress included so many of the reforms that had been advocated for over a decade by Bureau administrators and reformers in the Indian Reorganization Act, but also because of the depression and the changes it brought through Federal work-relief programs, and of World War II, which caused some 65,000 Indians to leave the reservations for the Armed Services or to engage in industrial or other work related to the war effort.

It is difficult to determine after the fact which advances were products of tribal reorganization as such, which resulted from special programs of the depression era, and which should be traced to the activities the Indians engaged in during the war. Whatever the origin of a particular contributing factor, the period from 1933 to 1945 was one of general growth for the Indians of the United States, and most tribes were better prepared to manage their own affairs after the reorganization experience. As suggested in the statement concerning the National Congress of American Indians, they were also more capable of making their voices heard in the Congress.

Probably neither the Congress nor the general public fully understood to what extent the Indian Reorganization Act was a reversal of the assimilation policy of the allotment period. There was a belief that the re-establishment of Indian community life and support of local Indian leadership would help prepare these communities to eventually be included in the family of local communities in the various States throughout the United States.

The tribal constitutions and corporate charters, actually alluded to in the Meriam Report and suggested by Commissioner Rhoads during the Hoover administration, were thought of as instrumentalities that would enable tribal organizations to interact as independent local entities with governmental and business structures. The program just didn't show results rapidly enough to satisfy members of Congress during the post-war period.

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[52] Johnson, N. B., "The National Congress of American Indians," *The American Indian*, vol. 3, no. 3, summer 1946, p. 2.

THE POST-WAR PERIOD, 1945–46

While many good things could have been said for the Indian Reorganization Act in 1945, the Congress was tired of the conflict with the act's foremost champion, John Collier. Commissioner Collier resigned in February. William A. Brophy, special United States attorney for the Pueblo Indians of New Mexico and special representative of the Secretary of the Interior for Puerto Rican affairs, was nominated almost immediately to succeed him. During the hearings on his appointment the chairman stated at one point:

> Moreover, the Chair is informed that he [Brophy] is not in agreement with the previous policy. Is that correct, Mr. Brophy?
>
> *Mr. Brophy.* I would like to put it that I will follow the policy fixed by Congress.
>
> * * * * * * *
>
> *Senator Hatch.* Mr. Chairman, may I interrupt for a moment? I think Mr. Brophy has given an answer which is highly interesting to the committee on this particular subject, and I just wondered whether the committee got what he said about following out and administering and carrying on the policies as laid down by Congress.
>
> *The Chairman.* I was just about to call attention to that.
>
> *Senator Hatch.* What are your ideas on that, Mr. Brophy?
>
> *Mr. Brophy.* Well, sir, I have no reservations whatsoever. I think the function and purpose of an elected official who is in an executive department, no matter what kind of a man he is, is to carry out the law as it is written, and the spirit and intent of it.
>
> *The Chairman.* Would it be your purpose, if you were confirmed as Commissioner of Indian Affairs, to work with Congress, and not around Congress?
>
> *Mr. Brophy.* Well, sir, I look at it—I do not know whether I am right or not—as sort of a partnership, when you get right

> down to it because Congress makes the policies, and they have to be carried out; if an executive does not carry them out, he ought to be fired.
>
> *Mr. Chairman.* Well, would it be your policy to work with Congress?
>
> *Mr. Brophy.* Oh, of course. Definitely.
>
> *The Chairman.* And carry out the congressional policy?
>
> *Mr. Brophy.* Definitely, I do not think that a man could take the oath and not do it.[53]

Indian policy as effected by the Congress had definitely begun to change by 1937, at the end of Collier's first four years in office. By 1943 and 1944, as illustrated by the actions of the Senate and House Indian Affairs Committees and the House Appropriations Committee mentioned in the previous chapter, congressional Indian policy had changed to such an extent that Collier and the congressional committees were definitely at cross purposes. To the extent that the Congress shapes Indian policy, policy had changed over the protests of the Interior Department and the Bureau of Indian Affairs during the Collier administration. Under the threat of liquidation of the Bureau, refusal to authorize new appointments, and the withholding of funds, programs were requested from each superintendent looking to the possibility of other Federal agencies, the States, or the Indians themselves assuming responsibilities that were then a part of the so-called "monopoly" held by the Bureau of Indian Affairs.

REORGANIZATION

Shortly after he became commissioner Mr. Brophy recommended a reorganization of the administrative functions of the Bureau: "In order better to solve the problems, old and new, and to render more efficient services to the Indians . . ."

The *New York Times* announced November 27, 1945 that a bill had been passed by the House and sent to the Senate which would authorize the Secretary of the Interior to delegate certain of his powers and duties to the Commissioner of Indian Affairs, who could in turn delegate them to his subordinates, who would then be able to reach decisions closer to the point where Indian problems originate. From February 18 to May 14, 1946 hearings were held on this bill to "facilitate and simplify administration of Indian affairs" before the Senate Indian Affairs Committee. The President signed the bill August 8, 1946.

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[53] *Nomination of William A. Brophy to be Commissioner: Hearings Before the Indian Affairs Committee.* Washington: 79th Cong., 1st sess., U.S. Senate, Indian Affairs Committee, February 20 to March 1, 1945.

The reorganization allowed the commissioner to set up five geographical districts with headquarters at Minneapolis, Minn.; Billings, Mont,; Portland, Ore.; Phoenix, Ariz.; and Oklahoma City, Okla. These changes made it possible to delegate to district officers and agency superintendents authority to act on many matters that previously had been referred to the central office. The establishment of the five districts made it possible to eliminate over 40 "at large" stations or offices.

In addition to the above changes the budget structure was completely overhauled allowing titles of appropriations to be consolidated from 116 to 29. This greatly simplified budget analysis and tended to facilitate the fixing of budget responsibilities by major activities.[54]

INDIAN CLAIMS

For over two decades recommendations had been coming to the Bureau of Indian Affairs and to the Congress to set up a special Indian Claims Commission to hear the many unsettled tribal claims against the United States. It seemed apparent that such action should precede any attempt on the part of the Nation to divest itself of the responsibility for an Indian tribe.[55]

Both the Burke and Rhoads Indian administrations had favored the settlement of these claims, and as mentioned in a previous chapter the failure of the Congress to pass an Indian claims bill had been a keen disappointment to John Collier. The House Indian Affairs Committee, as a result of its investigation of certain Indian problems during 1944 and 1945, included the establishment of an Indian Claims Commission on its list of recommendations.

Felix Cohen stated that by early 1945 some $37 million had been awarded to Indian tribes under the old system which required the Congress to enact special statutes allowing specific tribes to appear in the court of claims for stipulated injuries arising under treaties

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[54] Taylor, *op. cit.*, pp. 181–191. This work in its entirety examines the relationship of organization to the accomplishment of the purposes of policy.

[55] *Meriam Report*, pp. 19, 468, 805–811.

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and agreements.[56] He estimated that the cost to the United States in litigation and other procedural matters was greater than what the tribes had been awarded.

Two similar bills (H. R. 1198 and H. R. 1941) were introduced during the first session of the 79th Congress in 1945. Hearings were held on these bills for the "creation of an Indian Claims Commission" from March to June that year. Further hearings were held October 9, 1945 and May 14, 1946 "establishing a joint congressional committee to make a study of claims of Indian tribes against the United States, and to investigate administration of Indian affairs."

In the second session of the 79th Congress hearings were held on H. R. 4497 "to create an Indian Claims Commission (to provide for powers, duties, and functions thereof, and for other purposes)" during June and July 1946. After approval by both houses of the Congress, the President signed H. R. 4497 August 13, 1946.

The act called for the creation of a three-man commission that would hear and determine claims existing prior to the bills approval. It was anticipated that the commission would complete its work and cease to exist within ten years. Claims not filed within five years were to be outlawed. Any new claims after that date were to be filed in the court of claims.

As one studies the hearings relative to the creation of an Indian Claims Commission it becomes evident that one of the reasons the Congress considered it favorably was because it saw claims settlement as a necessary step to prepare Indian tribes to manage their own affairs.

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[56] Felix S. Cohen, "Indian Claims," *American Indian*, vol. II, no. 3, spring 1945, p. 10.

CHAPTER SEVEN

INDIAN RELOCATON AND TRIBAL TERMINATION

At first the Europeans dealt with the Indian tribes by treaty, as separate nations. It was believed that the Indians would gradually be assimilated, that their communities and those within the colonies would inter-mix. When this did not occur as soon as anticipated the Indian tribes were removed further west. When the western lands were needed for further expansion, the Indians were placed on reservations.

During the various periods mentioned above the European nations, and then the United States, continued to deal with the tribes by treaty. The internal affairs of a tribe were the responsibility of the tribal unit and its leaders. With the end of the treaty period in 1871, pressure mounted to disregard tribal leaders, to allot land to individual Indians, and to break up the tribal estate.

The eventual result of this pressure was the Allotment Act of 1887. Carried to its ultimate possibilities it would have put an end to the reservations, and Indians would have remained as separate families and as individuals in the various States within the United States. The allotment program officially remained in effect until the Indian Reorganization Act (or IRA) of 1934, although actual allotments were considerably curtailed in 1920. Lands within some of the western reservations were never allotted.

Under the Indian Reorganization Act the United States again reversed its position by bringing its program to individualize its relations with Indians to an end and instead revitalizing tribal organizations and Indian community life. Tribal leaders were strengthened and the formation of governing bodies was encouraged. The long range policy favoring eventual assimilation remained the same. Only the method had changed. The prevailing philosophy after the allotment experience was that assimilation would occur more rapidly if the Indian communities were again encouraged to prepare to take their places among the many local communities throughout the Nation.

In a 1957 article discussing the termination program, Senator Arthur V. Watkins implies that the tribal reorganization policy was a step backward:

> Unfortunately, the major and continuing Congressional movement toward full freedom was delayed for a time by the Indian Reorganization Act of 1934, the Wheeler-Howard Act. Amid the deep social concern of the depression years, Congress deviated from its accustomed policy under the concept of promoting the general Indian welfare. In the post depression years Congress—realizing this change of policy—sought to return to the historic principles of much earlier decades. Indeed, one of the original authors of the act was desirous of its repeal.[1]

An appraisal of the restoration of Indian community life under IRA is included under the heading "Things That Have Worked" in the 1948 Hoover task force report on Indian affairs:

> A third experience that is encouraging is the effort under the Indian Reorganization Act to establish self-government among the Indians. The Act marked the end of the attack on Indian institutions. To attempt to revive ancient institutions, in the 20th century, if there was such an effort, was a mistake, as has been noted. But the end of cultural hostilities and the effort to establish self-government in tribal or village communities have been all to the good. Not a little of the machinery of government is creaking. Some of its design is perhaps more influenced by the past than by present problems, and should be scrapped for later models, but there can be no doubt about the soundness of applying the principle of self-government to Indian problems.
>
> Indian leadership is developing. Indian people are analyzing their problems, and assessing their condition in a realistic way that is very promising. Some of them see very clearly that they can do more for themselves, with very reasonable assistance, than Uncle Sam would or could do for them. The dividends from this investment in self-government are just beginning

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[1] Arthur V. Watkins, "Termination of Federal Supervision: The Removal of Restrictions Over Indian Property and Person," *American Indians and American Life, The Annals*, American Academy of Political and Social Science, May 1957, p. 48.

> to come in, and there are some real weaknesses in the system as it stands, but Indian self-government is clearly a potent instrument if wisely used.[2]

Assessments of the Indian Reorganization Act have been controversial, but some things that worked without apparent pressure on the Indians during the Collier period, and immediately thereafter, aroused Indian fears when termination pressure was brought to bear in the late 1940's and the 1950's.

Relocation, as allotment, affected individual Indians and their families. Right after World War II it was acceptable to the Indians. Under the pressures of the 1950's there was a negative reaction. The Indians identified relocation as another weapon in the termination arsenal.

Termination put tribes under pressure to accomplish more rapidly what the Reorganization Act sought to bring about gradually. Under a method referred to as "piece-meal" termination there was pressure to turn what had been special services to Indians over to Government agencies that performed the same or similar services for non-Indians. During the Collier period Johnson-O'Malley type legislation accomplished similar goals gradually without upsetting the Indians.

INDIAN EMPLOYMENT AND RELOCATION

To follow one of the recommendations of the Meriam Report of 1928, a program was undertaken in the 1930's for securing employment away from the reservations for young Indians graduating from Bureau schools. Three factors worked against the success of such a program at that particular time: (a) the depression of the 1930's, with the accompanying reduction of job availability in most communities; (b) the special Federal work relief programs undertaken to provide employment on the reservations; and (c) the change of policy that encouraged the strengthening of tribal community life and convinced persons with training that their leadership was needed on the reservation.

During the years before World War II through the CCC, the WPA, and other related work relief programs, the level of Indian income was raised and individual Indians received valuable practical training in the operation and maintenance of tractors, bulldozers, and road building equipment, in the building trades, in soil and resources conservation work, and in other programs that served the non-Indian as well as the Indian population.

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[2] "Report of the Committee on Indian Affairs to the Commission on Organization of the Executive Branch of the Government." (The Hoover Commission) Charles J. Rhoads, John R. Nichols, Gilbert Darlington, and George A. Graham, chairman. Mimeographed. October 1948, pp. 72–73.

All of this was something of a preparation for the approximately 65,000 men and women who left the reservations during World War II to take their place in the Armed Services or to find employment in war industries. The educational value of this period of rubbing shoulders as equals with the non-Indian population at large and of using the same health, education, welfare, and employment services as other citizens cannot be measured. The IRA with its antecedents helped prepare them for this experience.

POST-WAR PROSPECTS

The Commissioner's report for 1941 states:

> One of the matters causing concern to the Office of Indian Affairs is the task of making provision now to take care of the several thousand Indians who will return to reservations at the end of the emergency . . . The Indians will be among the first to be affected by the shrinkage of employment opportunities subsequent to the war, and, if the past is any guide, they will return in large numbers to their home reservations. With resources inadequate to meet the needs of those already there, the problem of providing employment opportunities and a means of livelihood for each of the returning soldiers and workers will prove a staggering task.[3]

In the report for 1942 this problem is mentioned again:

> Should economic conditions after the war continue to offer employment opportunities in industry, many Indians will undoubtedly choose to continue to work away from the reservations. Never before have they been so well prepared to take their places among the general citizenry and to become assimilated into the white population.[4]

Most Indians in the Armed Services found that their buddies made them a part of the unit on land, sea, or air. When the war ended, they returned home with a different view of the world and the people in it. To some this would bring a time of great opportunity; to others, a time of despair.[5]

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[3] *Annual Report*, Commissioner of Indian Affairs, 1941, p. 451.

[4] *Ibid.*, 1942, pp. 294–296.

When the Indian youth returning from war services were asked what plans they had for the future, their answers were varied as were those of the non-Indians. Some had learned trades and wished to continue in them. Some wanted to take advantage of the G. I. Bill and continue their education. Others were just anxious to return home and resume their place in the community. Of these some would want loans to build homes, to establish small businesses, to improve their property, or to buy livestock. Almost all referred to the opportunity they had enjoyed of seeing more of the world, and many expressed a desire to let this experience be a means of broadening their outlook during the future before them at home.

The annual reports of the Commissioner of Indian Affairs to the Secretary of the Interior show the concern felt throughout the Indian Service for those who would be returning. They knew that at best the existing reservation land base could support only a part of the Indian population.[6] It would be necessary to find a place for tens of thousands of Indians in the general national economy.

As reported in 1946, what the Bureau had anticipated began to occur:

> Cessation of hostilities marked the beginning of a profound change in their fortunes. Wages from war vanished. Dependency allotments sent home by servicemen and women began to dwindle as the armed forces diminished. A downward trend in family incomes set in.[7]

With the end of the war the Bureau attempted to work with veterans and keep them informed concerning privileges and opportunities that were available to them as a result of their war service. In addition to educational benefits, on-the-job training, and vocational training, there were special loan privileges available to veterans.[8] Steps were taken to enable Indian veterans to secure commercial loans by offering income from trust property, livestock, equipment, etc., rather than the property itself as security. In some cases the tribes themselves offered special benefits to veterans.

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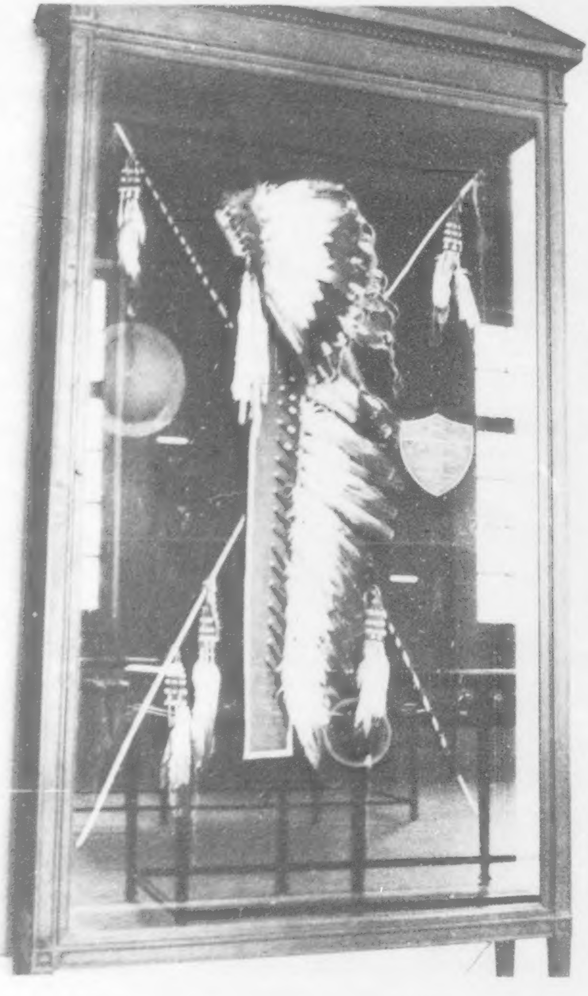
[5] John Adair, "The Navaho and Pueblo Veteran, A Force for Culture Change," *American Indian*, vol. IV, no. 1, 1947, pp. 5–11.

[6] *Annual Report*, Commissioner of Indian Affairs, 1945, p. 233.

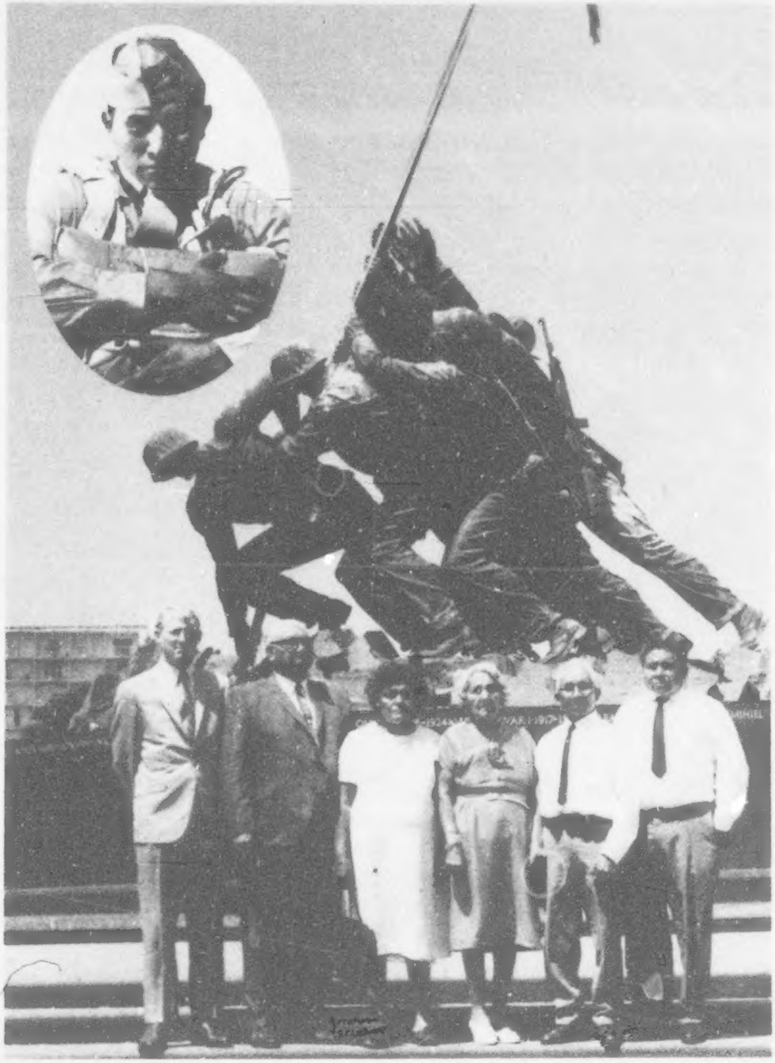
[7] *Ibid.*, 1946, p. 351.

[8] *Ibid.*, pp. 354–357.



During World War I, many people presented tributes to honor the Unknown Soldier. The Crow Chief Plentycoups presented this feather headpiece in behalf of his tribe. This picture was taken in the Trophy Room of the Amphitheater in Arlington National Cemetery.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)



Family and friends of Ira H. Hayes, Pima beneath the Iwo Jima War Memorial in Arlington, Va. for which he posed. Left to right: Jim Fraser, Lloyd Allison, Mrs. Hayes, mother of Ira Hayes, Joe Hayes, his father, and Kenneth Hayes. Inset: Pfc. Ira H. Hayes, a Pima, at age 19 ready to jump, Marine Corps Paratroop School.

(Photo: U.S. Marine Corps.)

Lt. Ernest Childers, a Creek, being congratulated by Gen. Jacob L. Devers after receiving the Congressional Medal of Honor in Italy for wiping out two machine gun nests.

(Photo: U.S. Signal Corps, U.S. Army.)

The conditions of the times required a varied approach. In a memorandum to Mr. Fickinger concerning Indian employment C. E. Lamson recommended that cooperative arrangements be worked out with the U. S. Employment Service to take advantage of its nationwide coverage of job opportunities. He recommended that an employment unit be established, headed by an individual with a broad background of employment experience, and that one or more of these individuals be placed in each regional office.[9] This was a time of general prosperity in the Nation. It was not a time when the Congress would support make work projects for the reservations. There was a feeling that during such times any person could find employment. It is not difficult to see why persons interested in Indians wanted them to have an opportunity to share in the wealth available to Americans generally.

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[9] Taken from National Archives microfilm, August 13, 1958. Letter written in September 1945.

As usual, the "good times" in the Nation were also a time of unusual competition for land and resources, thus non-Indians brought pressure on their representatives in the Congress to make individual Indian holdings available on the market.[10] Indians holding allotted lands found the dollar signs loomed large in their eyes and pressure developed from individual Indians to liberalize the granting of patents. Although reservation resources tended to remain static during the war years, reservation populations continued to increase. The serious economic needs of most reservations were thus brought to national attention after 1945.

In 1948, largely to meet the urgent needs of the Navajo Indians, a program offering job placement services was established. Placement offices were provided in Denver, Salt Lake City, and Los Angeles, and a few Navajo men began to move into these areas largely for seasonal employment.

The Bureau decided to extend this program to other Indians "who wished to seek permanent employment opportunities away from reservations" in the fall of 1950. An appropriation was specifically requested for this purpose beginning July 1, 1951, and a staff was assigned to work the States of Oklahoma, New Mexico, California, Arizona, Utah, and Colorado in the mid-summer of 1951.

A Field Relocation Office was opened in Chicago in November of 1951, and Los Angeles, Salt Lake City, and Denver, first established as Navajo placement offices, became Field Offices with an assignment to serve all tribes in these areas. The first relocatees began the process in February of 1952, and the numbers increased from year to year.

As Indian concern in regard to termination legislation grew, some identified relocation as an individualized kind of termination. A 1953 Bureau report suggested that less than a third of those relocated returned to the reservations. Non-Bureau surveys by critics of the program reported as many as 60 percent returning in some areas. A Bureau study covering relocations during the fiscal year 1956 reported that 74 percent of those relocated remained in the area they had moved to.

Also in 1956, the 84th Congress enacted Public Law 959 which authorized the Bureau of Indian Affairs "to provide vocational training for Indian people, chiefly from 18 to 35 years of age, living on or near reservations." This legislation was used in conjunction with the Relocation Service Program, and with the Industrial Development Program "designed to attract new industries that would employ Indians near their homes."

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[10] 79th Cong., 1st sess., S. 1093 and 1194; H. R. 3681 and 4196.

The number of relocations completed each year slowed down with the recession of 1957, but with the help of the vocational training program these picked up again thereafter. Relocation Services had become so closely identified with the unpopular termination legislation that the Bureau eventually redesignated such services the Employment Assistance Program.

PROGRAM DEVELOPMENT FOR PARTICULAR TRIBES

In the annual report for 1948 we read of the preparation and submission to the Congress of a long-term program of capital investment for the Navajo and Hopi reservations. What was unique about this was that at last a plan for a specific Indian area had reached the stage of congressional consideration:

> Acceptance or rejection of the Navajo-Hopi proposal may determine whether our national Indian policy in the future is to be based on a division of the total problem of human adjustment and resource utilization into parcels of a size that can be measured and dealt with on a time schedule. The Meriam report urged such a procedure.[11]

Objections were raised to the bill to aid the Navajo and Hopi because it contained social security measures that were unacceptable and because it would extend State control to the reservations. President Truman vetoed the bill in 1949 because of the provisions shifting them from the jurisdiction of Federal to State courts. There was fear that water rights and other programs would be jeopardized under the State court system.

The long-range Navajo-Hopi rehabilitation bill authorizing $14 million in cash and $6 million in contract authorization was enacted in 1950. The total amount eventually recommended for appropriation in connection with this bill was $108,570,000, of this amount $89,946,240 had been allocated to achieve the purposes specified in the legislation by fiscal year 1962. Funds were still available under the designation "Roads and Trails" to complete Routes 1 and 3. The bill as enacted carried the controversial provision for additional Federal contributions to the Arizona and New Mexico Departments of Public Welfare for public assistance grants to Navajos and Hopis.

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[11] *Annual Report*, Commissioner of Indian Affairs, 1948, p. 369.

The next large rehabilitation bill to be considered was a $23 million program for the 7,000 Indians living on the Papago Reservation in southern Arizona. The stated goal of this kind of legislation was to prepare these particular groups to handle their own affairs without Government supervision. As the pressure for outright termination grew programing to achieve that goal for particular tribes replaced the long-range reservation development programs enacted for the rehabilitation of the Navajo and Hopi Indians.

TRIBAL TERMINATION— FINDING THE ROOTS

In his report for 1933, John Collier stated:

> A decentralizing of administrative routine must be progressively attempted. The special functions of Indian Service must be integrated with one another and with Indian life, in terms of local areas and of local groups of Indians. An enlarged responsibility must be vested in the superintendents of reservations and beyond them, or concurrently, in the Indians themselves. This reorganization is in part dependent on the revision of the land allotment system; and in part it is dependent on the steady development of cooperative relations between the Indian Service as a Federal agency, on the one hand, and the States, counties, school districts, and other local units of government on the other hand.[12]

In 1940 Assistant Commissioner McCaskill summed up the trend in Indian administration under Collier in a paper entitled "The Cessation of Monopolistic Control of Indians by the Indian Office," with the following statement:

> We see the Indian Office divesting its authority into three directions: first among other Agencies of the Federal Government which have specialized services to render; second among

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[12] *Ibid.*, 1933, p. 69.

> the local state and county governments, which are much more closely associated with the problems in some areas than Washington can be; and finally among the tribal governments which have organized governing bodies, and which expect eventually to take over and manage all of the affairs of the Indians. Perhaps thus, but not at once, it may be found possible to cease special treatment, special protective and beneficial legislation for the Indians, and they shall become self-supporting, self-managing, and self-directing communities within our national citizenry.[13]

On November 15, 1943, Circular Number 3537, addressed to "Superintendents, Tribal Councils, All Indian Service Personnel, and All Indians," signed by John Collier and approved by Assistant Secretary of the Interior, Oscar L. Chapman, was sent out from the Indian Office.[14] This letter was a followup on Circular 3514, which called for basic program making for all reservations. The programs called for were completed in 1944 as ten-year development programs for each reservation. Some were good. Some were not. They were later to be used as criteria to determine a particular tribe's readiness for termination.

Members of the Congress cannot help being influenced by local politics and the Indian vote has not tended to be as important as that of other segments of the population. Bill after bill had been introduced in both the Senate and the House during the period from 1937 to 1945, with purposes in mind ranging from removing restrictions on land which could then be acquired by local interests in a particular State to attempts to put the Bureau of Indian Affairs out of business.

After the Senate and House investigations during the 16 year period beginning in 1928 and ending in 1944 there were no doubt many Congressmen who sincerely believed that the best thing ultimately for the Indian was to get him weaned away from his special status as rapidly as possible. We will recall that the Meriam Report in 1928 suggested that States should "as rapidly as possible" assume the responsibility for administering "activities which they can effectively perform alike for whites and for the Indians with a single organization."[15]

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[13] Joseph C. McCaskill, "The Cessation of Monopolistic Control of Indians by the Indian Office," as cited in A Sketch of the Development of the Bureau of Indian Affairs and of Indian Policy, mimeographed, 1956, p. 13.

[14] Commissioner's Circular No. 3537.

The Collier administration had not moved toward this goal fast enough to satisfy some members of the Congress. With a new Commissioner, they were determined to try to shape Indian policy toward the goals they had in mind, which had grown out of the extensive investigations referred to above.

Order No. 536, September 17, 1946 from Commissioner Brophy to district directors, superintendents, and Indian tribes and groups stated that the main objectives of the Bureau of Indian Affairs were "the economic and social rehabilitation of the Indian, the organization of Indian tribes so that they may manage their own affairs, and the adaptation of native Indian institutions and culture to modern conditions."[16]

On February 8, 1947, Assistant Commissioner Zimmerman appeared before the Senate Committee on the Post Office and Civil Service to present testimony on Indian Bureau withdrawal. The formula, having four parts, was devised to measure a tribe's readiness:

> *Senator Johnson.* What conditions did you use as a measure, so the committee may have the benefit of that?
>
> *Mr. Zimmerman.* The first one was the degree of acculturation; the second, economic resources and condition of the tribe; third, the willingness of the tribe to be relieved of federal control; and fourth, the willingness of the State to take over.
>
> They are the tests that need to be applied in each case.
>
> As to specific recommendations:
>
> Mr. Zimmerman recommended to the committee that group 1 could be released now from federal supervision; group 2 in 10 years; and group 3, in an indefinite time.

Group 1

Flathead
Hoopa
Klamath
Menominee
Mission
New York
Osage
Potawatomi
Sacramento
Turtle Mountain
(conditionally)

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[15] *Meriam Report*, p. 99.

[16] Commissioner's Order No. 536, September 17, 1946.

Group 2

Blackfeet
Cherokee
Cheyenne River
Colville (subject to restoration of ceded lands)
Consolidated Chippewa
Crow (special legislation)
Fort Belknap
Fort Peck (irrigation and power)
Fort Totten (no resources)
Grande Ronde (no resources)
Great Lakes (no resources)
Northern Idaho
Quapaw (in part, Wyandotte, Seneca)
Taholah, Tulalip (consolidation in part)
Tomah
Umatilla
Warm Springs
Wind River (Shoshone only)
Winnebago (Omaha still predominantly full-blood)

Group 3

Cheyenne and Arapaho
Choctaw
Colorado River
Consolidated Ute (claims recoveries)
Crow Creek
Five Tribes (Oklahoma policy and legislation)
Fort Apache
Fort Berthold
Fort Hall
Hopi
Jicarilla (possible 2)
Kiowa
Mescalero
Navajo
Pawnee
Pima
Pine Ridge
Quapaw (in part)
Red Lake
Rocky Boy's
Rosebud
San Carlos
Sells
Seminole
Shawnee
Sisseton
Standing Rock (r[illegible]ability)
Taholah, Tulali[illegible]art)
Tongue River
Truxton Canon
Uintah and Ouray
United Pueblos (if submarginal lands are added to reservation and if franchise granted, then perhaps in group 2)
Western Shoshone
Wind River (Arapaho only)
Yakima

Separate withdrawal bills were presented for the Klamath, Osage, and Menominee Tribes. In relation to his choice he stated:

> I took these as examples, as specimens, because each of them has substantial assets, each of them has a small degree of tribal control, and each of them has indicated that it wants to assume more control, if not full control, of its tribal assets and its tribal operations.[17]

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[17] *Officers and Employees of the Federal Government: Hearings on S. Res. 41 Before the Committee on the Post Office and Civil Service* (Washington: 80th Cong., 1st sess., U. S. Senate, Committee on the Post Office and Civil Service, February 8, 1947, pt. 3, p. 547. Copied as cited in *Report with Respect to the House Resolution Authorizing the Committee on Interior and Insular Affairs to Conduct an Investigation of the Bureau of Indian Affairs* (Washington: 82d Cong., 2d sess., U. S. House of Representatives, 1953), Report No. 2503, pp. 164–165.

In a speech before the Home Missions Council of North America, January 6, 1948, William E. Warne, Assistant Secretary of the Interior stated:

> The avowed objective of the Indian Service of the Department of the Interior through the years has been to work itself out of a job. Within the last year the committees of the Congress which are concerned with Indian Affairs have expressed some doubts whether the controls were being released rapidly enough. To reaffirm this policy of releasing Indians from Government supervision, the Congress made substantial reductions in funds appropriated for this fiscal year for Indian administration at all levels of the service . . .
>
> Wholesale and indiscriminate relinquishment of Federal responsibilities for the protection of Indian property rights is not justifiable, however, and would be dangerous to the Indians.

After outlining some of the problems in relation to discrimination against Indians in particular localities, Mr. Warne goes on to discuss the possibilities of Federal withdrawal from the fields of health, education, welfare, and tribal responsibility for resources. The last two sentences indicate that the policy has been pretty well defined:

> Finally, I might refer to the testimony given by Acting Commissioner Zimmerman before a committee of the United States Senate last winter in which it was proposed that certain tribes, possessed of resources and already well assimilated, were at the point where Federal supervision could be withdrawn, almost immediately. Other tribes should come to this point in another 10 years, and all tribes should be moving in this direction. All of us in the Department of the Interior are hopeful that the day is not too far off when we may see the end of our guardianship responsibility with respect to the Indian people.
>
> That day will come at different times for different tribes, but everyone will welcome the advent of each such day.[18]

Early in 1948, Mr. Wathen, who had been placed in charge of programing in the central office, set up a series of conferences with regional offices to work on programs for each reservation.[19] According to instructions from Acting Commissioner Zimmerman the programs requested by Collier in 1943 and submitted in 1944 were to be used, where possible, as a basis for further programing. The following specific instructions are from Mr. Zimmerman's Circular No. 3675, May 28, 1948:

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[18] Speech of William E. Warne, "The Public Share in Indian Assimilation," Annual Meeting, Home Missions Council of North America, Inc., January 6, 1948.

[19] Acting Commissioner's Circular No. 3672, May 5, 1948.

> What is desired is the assembly in concise form of existing factual data as to the social and economic status of each group or tribe and, after a careful analysis and evaluation of these data, the projection of a comprehensive long-range program. The objective of the program should be the eventual discharge of the Federal government's obligation, legal, moral, or otherwise, and the discontinuance of Federal supervision and control at the earliest possible date compatible with the government's trusteeship responsibility. This may mean the early termination of all Federal supervision for some groups, whereas for others it seems obvious that certain Federal activities, including the development of resources, must be continued for many years.[20]

We should remember that the Congress was responsible for the kind of termination policy that was developed. Mr. Zimmerman appeared before the Civil Service Committee *at its members' request* to present a withdrawal program which would lead to a reduction in Bureau personnel. In the language of an article in the *New York Times*, the Public Lands Committee of the 80th Congress (1947) "compelled" the Indian Bureau to give them a classification of tribes with target dates for "freedom from wardship." [21]

Although the Hoover Commission in 1948 stated unequivocally that Indian "assimilation must be the dominant goal of public policy," the report was less definite in explaining exactly how such assimilation was to be brought about. Praise for the role of the Indian community was expressed, and caution was advised in the accomplishment of change. The Indians would need to be involved in decision making and in the establishment of goals and objectives.

Pressure was also developing from States for termination of Federal responsibilities. In some cases, as in North Dakota, there were strings attached, with the States wanting the Federal Government to finance the programs while State officials would administer them. In other cases States were willing to accept responsibility for their

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[20] Acting Commissioner's Circular No. 3675, May 28, 1948.

[21] *New York Times*, March 6, 1950, 15:5.

Indian population with a minimum of assistance from the Nation.

An interesting reference to the need for greater tribal initiative is made by Theodore H. Haas, in 1949, when in a speech before the National Congress of American Indians he charged the Indians themselves with the responsibility of helping the Indian Bureau "to work itself out of a job:"

> . . . Show us what functions we should diminish or end, what functions we should increase, if any; what functions we should turn over to the state and local governments, another Federal bureau, or the tribes. Kindly be specific in your advice as to method, time and place, and give us the benefit of your reasons.
>
> I want to cite a few other examples of how you can assist us. We have frequently said that one of the Bureau's objectives is the termination of Federal supervision and control special to Indians, and the progressive transfer of tribal property and tribal enterprises to Indian-owned and controlled Federal corporations. I believe that you have passed resolutions to the same general effect. Yet only two tribes numbering together about 1,000 members, the Stockbridge-Munsee Indians of Wisconsin in 1948, and the Saginaw-Chippewa Indians of Michigan in 1949, have voted under their constitutions and charters to end the supervision of the Department of the Interior over several types of their leases and contracts. Why haven't more Indian tribes—including some of the members of your organization—sought the transfer from the Bureau to them of additional powers over the management of their own community activities? What is the National Congress of American Indians doing in this important administrative field—especially with regard to groups who denounce Bureau domination? [22]

Commissioner Myer, in his *Annual Report* for 1951, mentions two long-range objectives to which the Bureau should prepare to give more intensive effort. These were "(1) a standard of living for Indians comparable with that enjoyed by other segments of the population, and (2) the step-by-step transfer of Bureau functions to the Indians themselves or to appropriate agencies of local, State or Federal Government." [23] To accomplish these objectives, it was suggested that qualified personnel should be acquired that were able to spend full time "developing cooperatively with each of the major Indian groups an individualized program of resource development."[24]

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[22] Theodore H. Haas, "The Rebirth of Indian Spirit and Action," address given before the Sixth Conference of National Congress of American Indians, Rapid City, S. Dak., September 22, 1949.

[23] *Annual Report*, Commissioner of Indian Affairs, 1951, p. 353.

In 1952 a Division of Program was established in the central office of the Bureau. Its purpose was to "stimulate, guide and assist the development of joint programming by tribal leaders and Bureau personnel looking toward improvement of the basic economic status of Indians and step-by-step withdrawal of the Bureau from their affairs."[25]

Under authority of House Resolution 698, the 82d Congress in 1952, a letter was written to the Commissioner of Indian Affairs requesting a complete report on the following propositions:

1. The manner in which the Bureau of Indian Affairs has performed its functions of studying the various tribes, bands, and groups of Indians to determine their qualifications for management of their own affairs without further supervision of the Federal Government;
2. The manner in which the Bureau of Indian Affairs has fulfilled its obligations of trust as the agency of the Federal Government charged with the guardianship of Indian property;
3. The adequacy of law and regulations as assure the faithful performance of trust in the exchange, lease, or sale of surface or subsurface interests in or title to real property or disposition of personal property of Indian wards;
4. Name of tribes, bands, or groups of Indians now qualified for full management of their own affairs;
5. The legislative proposals designed to promote the earliest possible termination of all Federal supervision and control over Indians;
6. The functions now carried on by the Bureau of Indian Affairs which may be discontinued or transferred to other agencies of the Federal Government or to the States;
7. Names of States where further operation of the Bureau of Indian Affairs should be discontinued;
8. Recommended legislation for removal of legal disability

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[24] *Ibid.*

[25] *Ibid.*, 1952, p. 389.

of Indians by reason of guardianship by the Federal Government; and

9. Findings concerning transactions involving the exchange, lease, or sale of lands or interests in lands belonging to Indian wards, with specific findings as to such transactions in the State of Oregon.[26]

The Bureau's response to most of these propositions appeared in House Report No. 2503, the 82d Congress, second session, a document of 1594 pages, containing 157 maps and numerous tables, published in 1953.[27] Proposition 4 called for the "name of tribes, bands, or groups of Indians now qualified for full management of their own affairs" and resulted in the Bureau sending out an official letter to all Bureau officials, accompanied by a detailed questionnaire. The results of the questionnaire appear in House Report No. 2680, the 83rd Congress, second session, published in 1954. Following is the list of tribes with their readiness to be relieved of Federal support indicated. The word "yes" indicates that a particular group is ready to handle its own affairs immediately; "no" indicates those that are not qualified, "in the opinion of local officials of the Indian Bureau:"

Blackfeet: Yes (except for a minority).
California (115 groups listed on pp. 1140–1141 of H. Rept. 2503, 82d Cong., 2d sess.): Yes.
Cherokee and Catawba:
  Cherokee of North Carolina: No.
  Catawba of South Carolina: Yes.
Cheyenne River: No.
Choctaw of Mississippi: No.
Colorado River Agency:
  Hualapai: No.
  Yavapai: Yes (conditionally).
  Havasupai: No.
  Campe Verde: No.
  Fort Mohave: No.
  Cocopah: Yes.
  Colorado River: No.
Colville and Spokane:
  Colville: Yes (conditionally).
  Spokane: Yes.
Consolidated Chippewa:
  Fond du Lac: Yes.
  Grand Portage: Yes (conditionally).
  Leech Lake: Yes (conditionally).
  White Earth: Yes (conditionally).
  Nett Lake: Yes (conditionally).
  Mille Lac: Yes.
Consolidated Ute Agency:
  Southern Ute: No.
  Ute Mountain: No.
Crow: No.
Crow Creek and Lower Brule:
  Crow Creek: No.
  Lower Brule: No.
Five Civilized Tribes: No.
  Quapaw area:
    Eastern Shawnee: Yes (conditionally).
  Ottawa: Yes.
  Quapaw: Yes (except for minority).

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[26] House Report No. 2503, pp. 2–3.

[27] *Ibid.*, p. 170.

  - Seneca-Cayuga: Yes (conditionally).
  - Wyandotte: Yes (conditionally).
- Flathead: Yes.
- Fort Apache: No.
- Fort Belknap and Rocky Boy's:
  - Fort Belknap: Yes.
  - Rocky Boy's: No.
- Fort Berthold: Yes.
- Fort Hall: Yes (if gradual).
- Fort Peck: Yes (except for minority).
- Great Lakes Consolidated:
  - Bad River: No.
  - Bay Mills: Yes.
  - Forest County Potawatomi: No.
  - Hannahville: Yes.
  - Keweenaw Bay: Yes.
  - Lac du Flambeau: Yes (conditionally).
  - Oneida: Yes.
  - Red Cliff: Yes.
  - Sac and Fox of the Mississippi in Iowa: No.
  - Saginaw Chippewa or Isabella: Yes.
  - St. Croix: Yes.
  - Sokagon or Mole Lake: Yes (conditionally).
  - Stockbridge-Munsee: Yes.
  - Winnebago of Wisconsin: Yes (conditionally).
- Hopi: No.
- Jicarilla: No.
- Klamath: (?)
- Menominee: Yes.
- Mescalero Apache: No.
- Navajo: No.
- Nevada:[28]
  - Battle Mountain Colony: Yes.
  - Carson County: Yes.
  - Duck Valley: Yes.
  - Elko: Yes.
  - Ely: Yes.
  - Fallon Colony: No.
  - Fallon: Yes.
  - Fort McDermitt: Yes.
  - Goshute: No.
  - Las Vegas: Yes.
  - Lovelock Colony: No.
  - Moapa: Yes.
  - Pyramid Lake: Yes.
  - Reno-Sparks: Yes.
  - Ruby Valley: Yes.
  - Skull Valley: Yes.
  - South Fork: Yes.
  - Summit Lake: Yes.
  - Walker River: Yes.
  - Washoe: No.
  - Winnemucca Colony: Yes.
  - Yerington Colony: No.
  - Yerington (Campbell Ranch): Yes.
  - Yomba: Yes.
- Northern Cheyenne: No.
- Northern Idaho Agency:
  - Kalispel: No.
  - Kootenai: No.
  - Nez Perce: Yes.
  - Couer d'Alene: Yes.
- Osage: (?)
- Papago: No.
- Pima Agency:
  - Fort McDowell: No.
  - Salt River: Yes (conditionally).
  - Gila River: No.
  - Maricopa or Ak Chin: No.
- Pine Ridge: No.
- Pipestone: (?)
- Red Lake: No.
- Rosebud and Yankton:
  - Rosebud: No.
  - Yankton: Yes (conditionally).
- San Carlos: No.
- Seminole of Florida: No.
- Sisseton-Wahpeton Sioux: Yes.
- Southern Plains:
  - Absentee Shawnee: No.
  - Alabama-Coushatta of Texas: Yes (except for minority).
  - Caddo: Yes.
  - Cheyenne-Arapaho: No.
  - Citizen Potawatomi: Yes.
  - Fort Sill Apache: Yes.
  - Iowa of Kansas and Nebraska: Yes.
  - Iowa of Oklahoma: Yes.
  - Kaw: Yes.
  - Kickapoo of Kansas: Yes.

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[28] Yes or No answers for Nevada settlements were based on numerical counts of families, competent, marginal, and incompetent.

  Kickapoo of Oklahoma: No.
  Kiowa-Comanche-Apache: No.
  Otoe-Missouria: No.
  Pawnee: Yes (except for minority).
  Ponca of Oklahoma: No.
  Prairie Potawatomi of Kansas: No.
  Sac and Fox of Kansas and Nebraska: No.
  Sac and Fox of Oklahoma: Yes (except for minority).
  Tonkawa: Yes.
  Wichita: Yes (except for minority).
Standing Rock: No.
Turtle Mountain and Fort Totten:
  Turtle Mountain: Yes.
  Fort Totten: Yes (conditionally).
Uintah and Ouray:
  Uintah and Ouray: No.
  Shivwits: No.
  Koosharem: No.
  Indian Peaks: Yes (conditionally).
  Kaibab: No.
  Kanosh: No.
Umatilla: Yes (conditionally).
United Pueblos:
  Acoma: No.
  Cochiti: No.
  Isleta: No.
  Jemez: No.
  Laguna: No.
  Nambe: No.
  Picuris: No.
  Pojaque: No.
  Sandia: No.
  San Felipe: No.
  San Ildefense: No.
  San Juan: No.
  Santa Anna: No.
  Santa Clara: No.
  Santa Domingo: No.
  Taos: No.
  Tesuque: No.
  Zia: No.
  Zuni: No.
  Canyoncito: No.
  Alamo: No.
  Ramah: No.
Warm Springs: No.
Western Washington:
  Chehalis: Yes.
  Hoh: Yes.
  Lower Elwha: Yes.
  Lummi: Yes (conditionally).
  Makah: Yes.
  Muckleshoot: Yes.
  Nisqually: Yes.
  Ozette: Yes.
  Port Gamble: Yes.
  Port Madison: Yes.
  Public Domain: Yes.
  Puyallup: Yes.
  Quileute: Yes.
  Quinault: Yes.
  Shoalwater: Yes.
  Skokomish: Yes.
  Squaxon Island: Yes.
  Swinomish: Yes (conditionally).
  Tulalip: Yes.
Wind River: Yes.
Winnebago Agency:
  Omaha: Yes.
  Ponca: Yes.
  Santee Sioux: Yes.
  Winnebago: Yes.
Yakima: No.

On the basis of the groups, tribes, bands, etc., named by the local Indian Bureau officials themselves, necessary legislation and administrative steps should be taken to effect discontinuance of further operation of the Bureau of Indian Affairs (either by transfer of responsibility for management and supervision over the lives and property directly to individual Indians or groups, to Federal agencies supplying to non-Indian services needed by some Indians, or to the States and local governmental subdivisions) in the following States: California, Michigan, Nebraska, South Carolina, Texas, and Wyoming. Conclusions reached at the local Bureau level may not, of course, coincide with committee conclusions which might be reached after full hearings nor with local findings that all tribes in all named States are found eligible for termination.[29]

TERMINATION: 1953–58 [30]

With this list and the supporting information drawn from the 1952 questionnaire, the Congress now had three studies that could be referred to in regard to tribal readiness for termination: first the reservation programs submitted in 1944; second the Zimmerman report, 1947; and the information included in the response to the Myer's questionnaire, 1952, comprised the third. The information available in these three studies and the lists themselves are often contradictory. Several lists of requirements for readiness for termination also appeared, both from within and outside the Bureau, none of which were followed consistently.

House Concurrent Resolution 108, the 83rd Congress, 1953, named specific tribes that were to be terminated "at the earliest possible time." It also named certain States where all of the tribes were to be "freed from Federal supervision." In these States, named specifically, all offices of the Bureau of Indian Affairs were to be closed "upon the release of such tribes and individual members thereof from such disabilities and limitations . . ."

In 1954, hearings were held on the tribes mentioned in H. C. R. 108, with some extras thrown in. These hearings on termination bills were held with representatives of the House and Senate Indian Affairs Subcommittees sitting together:

1. February 15, 1954: Tribes of Utah (Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute, Skull Valley Shoshone, and Washakie Shoshone); H. R. 7654 and S. 2670.
2. February 16, 1954: Alabama and Coushatta Tribes of Texas, H. R. 6282 and H. R. 6547 and S. 2744.

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[29] *Report with Respect to the House Resolution Authorizing the Committee on Interior and Insular Affairs to Conduct an Investigation of the Bureau of Indian Affairs* (Washington: 83rd Cong., 2d sess., U. S. House of Representatives, 1954), Report No. 2680, pp. 3–4.

[30] Felix S. Cohen, "The Erosion of Indian Rights 1950–1953: A Case Study in Bureacracy," *The Yale Law Journal* (February, 1953), pp. 348–390, should be taken into consideration as background to this period. It gives a view through the eyes of one deeply involved during the Collier period.

3. February 17, 1954: Tribes of Western Oregon (Grand Ronde, Siletz); H. R. 7317 and S. 2746.
4. February 18–19, 1954: Kansas and Nebraska Tribes (Sac and Fox, Iowa, Potawatomi, Kickapoo); H. R. 7318 and and S. 2743.
5. February 23–24, 1954: Klamath of Oregon; H. R. 7320 and S. 2745.
6. February 24, 1954: Makah of Washington; H. R. 7981.
7. February 25–26, 1954: Flathead of Montana (Salish and Kootenai); H. R. 7319 and S. 2750.
8. March 1–2, 1954; Seminole of Florida; H. R. 7321 and S. 2747. (A field visit was made to Florida Everglades and Seminole homes by Congressmen E. Y. Berry and James A. Haley of the Committee, March 11–14, 1954).
9. March 2–3, 1954: Turtle Mountain Chippewa of North Dakota; H. R. 7316 and S. 2748.
10. March 4, 5, 6, 1954: Indians of California; H. R. 7322 and S. 2749.
11. March 10, 11, 12, 1954: Menominee of Wisconsin; H. R. 7135 and S. 2813.
12. Field hearings at Reno, Nevada, April 16–17, 1954: Nevada Indians (Ruby Valley Shoshone, Yerington Paiute, Battle Mountain, Carson, Las Vegas, Lovelock, Reno-Sparks, and Yerington Colonies); H. R. 7552.
13. Field hearings at Klamath Falls, Oregon, April 19, 1954: Klamath Indians; H. R. 7320 and S. 2745.[31]

In addition to those listed above termination proceedings were started in the Congress for the Colville of Washington; the Peoria, Wyandotte, and Ottawa of Oklahoma; and the Uintah and Ouray (mixed bloods) of Utah. Some of these requested termination themselves.

Of the States mentioned in House Concurrent Resolution 108, the Bureau was able to withdraw completely only in Texas. Texas had been relieved almost completely of its Indian problem over a hundred years previously when her Indians were removed to Oklahoma Indian Territory. In Florida the Seminoles were far from being ready for termination. California, favorable to termination in 1953, became very cautious after a committee of her legislature studied the question. Termination, of the "piece-meal" variety proceeded gradually, but California did not accept a final date for assuming all responsibility for the California Indians.[32] To my knowledge, the Seneca and the Six Nations of New York still refuse to break their last ties with the Federal Government: a $4,500 annuity for distribution of cloth to the Six Nations and $14,250 annual interest to the Seneca on trust funds held for them in the United States Treasury.[33]

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[31] *Ibid.*, pp. VII–VIII.

By 1954, the resistance to the termination policy statement by the Congress (H.C.R. 108) was in full swing, particularly among Indian groups and friends of the Indian groups.[34] The Indian Rights Association and the American Friends Service Committee, normally somewhat conservative, spoke out strongly against too-rapid termination.[35] The Governor's Interstate Indian Council, favorable to termination until 1953, grew more cautions in 1954, and set up minimum conditions that should be met by the Federal Government prior to termination in 1955.[36]

Senators and Representatives, under pressure from the folks at home who had looked a second time at what it would cost to assume responsibility for the Indians of their State, had become more cautious. Some spoke openly against too-rapid termination.[37] Few people seemed to be against gradual, planned Federal withdrawal, with methods and the timetable reached in agreement with Federal, State, county, and Indian interests, but more and more informed people by the mid-1950's were speaking out against "at the earliest possible time" termination without the necessary precautions being taken.[38]

A *Washington Post* article is cited as an example:

> Congress has run into a storm of protest against some of

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[32] *Progress Report to the Legislature by the Senate Interim Committee on California Indian Affairs* (Sacramento: Senate, State of California, January 1955).

[33] Director of Indian Service, New York State, *The Indian Today in New York State* (Albany: State of New York, 1956), footnote 4, p. 12.

[34] Refer to publications of National Congress of American Indians and to the *American Indian*, published by American Association of Indian Affairs.

[35] Refer to *Indian Truth*, published by Indian Rights Association, and unpublished surveys and reports of the American Friends Service Committee, Philadelphia.

[36] See Proceedings of the Governors' Interstate Indian Council, 1957.

[37] As an example, see Lee Metcalf, "The Need for Revision of Federal Policy in Indian Affairs," *Indian Truth*, vol. 35, no. 1, January-March, 1958, pp. 1–8; and Lee Metcalf, "The Story of Two Congresses," Address before 13th Annual Convention, National Congress of American Indians, Salt Lake City, Utah, September 24–28, 1956.

[38] See *Congressional Record*, *New York Times* and *Guide to Periodical Literature* for 1955 to 1958 particularly.

> the Indian bills it has under consideration. When hearings on the so-called termination bills were held recently, tribes from 21 states and Alaska are said to have sent to Washington the largest gathering of Indians ever to appear here. Complaints are continuing to flow in by mail and telephone and personal visits. Some of the tribes appear to be almost frantic over the suggestion that they be freed from Indian Bureau supervision—and aid.
>
> In general we sympathize with the long-range aims of the administration to "get out of the Indian business." But it cannot be accomplished overnight. Certainly the Government ought not to withdraw the special aid and protection it has given the tribes on reservations until they are prepared to manage their own affairs. The vice in some of the bills now being considered is that they disregard the wishes of the Indians as well as the illiteracy and unpreparedness of the members of some tribes to make a living in competition with other Americans.[39]

Other sources were not so restrained in viewing the intended congressional actions. Commenting that making the Indians assume their full responsibilities as American citizens was a good thing, although saying it tongue-in-cheek, one article stated:

> Ask the Indian. He says it means he will have to pay taxes on his land, and that this is unjust. Why shouldn't he pay taxes on his land? He says its tax-free status was bought by him when he made concessions of larger territories on condition that this land was to be his without conditions. He asks what the holders of tax-free municipal bonds would say if the government were suddenly to make them "assume their responsibilities as citizens" by paying taxes on these bonds.
>
> He inquires what manufacturers who have built plants for national defense after being promised tax concessions would say if suddenly Congress were to decide they had to pay taxes on these buildings. He points out that educational institutions, cooperatives and churches are not taxed; that owners of oil wells do not have to pay taxes on 27 percent of their output as a depletion allowance. All these concessions were made for reason, the government receiving full value for the concession. The government has also received full value from

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[39] *The Washington Post*, April 12, 1954.

> the Indians, as expressed in nearly 400 treaties. But H.R. 108 means that Congress declares it is the policy of the United States to renounce its end of these bargains without returning to the Indians the valuable considerations they gave for this exemption.[40]

Some arguments against termination were thus motivated by honest inquiry into the rights of American Indians, but others were motivated by a fear of complete abandonment by the Government. These words, for example, represent the point of view of a Montana Chippewa:

> We can't make it without the Federal Government. A few of us have made it maybe, but not whole tribes. Chief Little Shell's people, who were terminated out of North Dakota, my own tribe could not make it.[41]

These statements are cited from a Justice of the State Supreme Court in Montana:

> The Indian communities would have been stripped of the protection of their forests, their lands, their power sites, their cattle, their homes, and other possessions. The break would have been swift and complete. It would have ended the joint commitment of Indian and federal government set forth in treaties and contracts to work out the future of the Indian in American partnership. It would have left the majority of the Indians practically helpless before local discrimination and wily individuals. Where is our national Christian conscence [sic]? Are we suffering from spiritual hemorrhage?
>
> The policy was to have declared an Indian no longer an Indian and to abandon him completely as far as our national government is concerned.[42]

Senator Barry Goldwater made the following observation in the face of such criticism:

> It is high time we eradicated the completely false impres-

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[40] Harold E. Fey, "Our National Indian Policy," *The Christian Century*, vol. LXXII, no. 13, March 30, 1955, p. 395.

[41] Mrs. Emms Kolina, *Congressional Record*, vol. C, 83d Cong., 2d sess. Extension of remarks of Hon. James E. Murray of Montana, July 9, 1954, printed in the Appendix, pp. A4958–59.

[42] R. V. Bottomly, "We Must Assist Our Indian Brothers to Help Themselves: Bottomly," *The People's Voice*, Helena, Mont., April 6, 1956. Reprinted speech given before the National Congress of American Indians in Spokane, Wash.

> sion that Congress intends to abandon these citizens regardless of whether or not they are ready to care for themselves.[43]

And so the controversy raged on. In commenting on the termination bills drawn up under the provisions of the resolution. Harold E. Fey, adopting one of the lines of argument outlined above, said:

> The bills deriving from H.R. 108 do more than withdraw federal trust from Indian properties placed on tax rolls. They also terminate the application of the Indian Reorganization Act of 1934, abolish tribal constitutions and corporations based on that law, abrogate federal-Indian treaties, and impose the breakup of tribal properties into individual parcels. But the basis of the Indian's apprehension is that these bills threaten his land. He remembers what happened as a result of the Indian Allotment Act of 1887: Indian landholdings shrank from 139 million to 48 million.[44]

At first Commissioner Emmons appeared cautious in his views of pending termination legislation. Speaking before the National Congress of American Indians he stated:

> If we are to be realistic, all of us must recognize, I believe, that there is inevitably a certain degree of impatience in Congress about Indian Affairs. There is also a tendency on the part of some members to write the whole problem off as insoluble and to liquidate it in one sweeping piece of legislation. Nobody, I assure you, is more deeply concerned than I am about the prospect of such legislation or more keenly aware of the tragic disaster it would almost certainly bring to the lives of thousands of Indian people. I will, I promise you, oppose any such bill with all the strength and all the resourcefulness I have.[45]

Later, Commissioner Emmons defended giving the Indians unrestricted control over their property and full responsibility to manage their tribal and individual affairs:

> Just ten days ago the Alabama and Coushatta Indians of Texas became the first tribal group in recent history to move

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[43] Hon. Barry Goldwater, *Congressional Record*, vol. CV, part 3, 86th Cong., 1st sess., p. 3587.

[44] Fey, *op cit.*

[45] Glenn L. Emmons, Address given before the Annual Convention of the National Congress of American Indians, Omaha, Neb., November 19, 1954.

> outside the scope of Federal trusteeship and Federal laws especially applicable to Indian people. Five other groups covered by roughly similar laws enacted by Congress last year are now at work on specific plans and programs which will eventually give them unrestricted control over their property and full responsibility to manage their tribal and individual affairs . . . The groups involved are the western Oregon Indians and four Paiute bands of Utah, who have a little over one year left for completion of the readjustment process; the Klamath Tribe of Oregon and Menominees of Wisconsin, who still have more than three years to go; and the mixed blood people of the Uintah-Ouray Reservation in Utah, who are planning in terms of a final separation from Federal controls by August, 1961.[46]

By 1958 Commissioner Emmons was rather profuse in his praise of House Concurrent Resolution No. 108:

> . . . I have no hesitancy whatever in calling it one of the most valuable and salutary Congressional measures we have had in Indian Affairs for a great many years.
>
> I say this because H. Con. Res. 108 is basically a notification to the Indian people that "some day they are going to reach the age of 21" and that they should start planning, thinking and preparing themselves for the responsibilities that necessarily go with full freedom and unrestricted ownership of their individual and tribal properties. Obviously, this was like a very cold plunge to many of the Indians who had been lulled into feeling that the Government would continue serving indefinitely as their trustee. But it was, in my estimation, a most healthy kind of plunge and I firmly believe that to repeal it now, as advocated in some quarters, would be a tragic disservice to the future welfare of the Indian people.
>
> Contrary to the impression which many people seem to have and some are deliberately spreading, the policy of the present Administration does NOT call for hasty termination of Federal trust responsibilities in Indian affairs. Rather, it emphasizes the need for thorough study, careful planning, and full consultation with the Indians, tribe by tribe and group by

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[46] Glenn L. Emmons, "The American Indian—Yesterday, Today, and Tomorrow," Address given at the Triennial Conference of the National Fellowship of Indian Workers, Estes Park, Colo., July 11, 1955.

> group. It also recognizes and stresses the right of the Indians to continue holding their lands in common and maintaining their tribal organizations for as long as they wish after the Federal trusteeship has been terminated.[47]

Throughout his administration from 1953 to 1961, Commissioner Emmons referred frequently to four goals other than termination that were basic to the program of the Bureau of Indian Affairs. (1) Efforts were made to improve Indian health programs and to bring health standards for Indian communities up to the same standard as the surrounding communities. (2) A strenuous effort was made to see that all eligible Indian children were able to attend either Federal or public schools. There was a special drive to meet the needs of Navajo young people. (3) Economic development programs sought to improve resources on the reservations and to attract industry to locate plants on or immediately adjacent to reservations to furnish employment to Indians. (4) Through assistance in connection with relocation services and by providing vocational training Indians were enabled to leave the reservation and find employment in non-Indian communities.

On September 18, 1958, Secretary of the Interior Fred E. Seaton made an address over the radio from Flagstaff, Ariz., in which he outlined a new point of view for the Department on the centrally important question of terminating Federal trust responsibilities for Indian tribal groups. He specifically mentioned the various attacks launched against H. Con. Res. No. 108 and the impression created by some interpreters that the Congress and the Department of the Interior intended to abandon Indian groups regardless of their ability to administer their own affairs. After stating that he felt the qualifying phrases of the resolution such as "at the earliest possible time" and "at the earliest practicable date" e intended by the Congress to state an objective and not an immediate goal, the Secretary said:

> To be specific, my own position is this: no Indian tribe or group should end its relationship with the Federal Government unless such tribe or group has clearly demonstrated—first, that it understands the plan under which such a program would go forward, and second, that the tribe or group affected concurs in and supports the plan proposed.

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[47] Glenn L. Emmons, "Why We Still Have an 'Indian Problem'," *Sunday Telegram*, Worcester, Mass. Guest editorial of January 12, 1958.

> Now, ladies and gentlemen, it is absolutely unthinkable to me as your Secretary of the Interior that consideration would be given to forcing upon an Indian tribe a so-called termination plan which did not have the understanding and acceptance of a clear majority of the members affected. Those tribes which have thus far sought to end their Federal wardship status have, in each instance, demonstrated their acceptance of the plan prior to action by the Congress. I shall continue to insist this be the case and I hope and believe that Congress and its leaders will pursue the same course. To make my position perfectly clear, as long as I am Secretary of the Interior, I shall be dedicated to preserving the principle which I have just enunciated.[48]

This pronouncement had the effect of slowing down the termination fervor which had reached its peak in 1953 in the months after House Concurrent Resolution 108. Termination proceedings had only slowed down, however, and had not stopped completely. The Annual Report of the Commissioner for 1961 carries the information that besides the Indian groups before mentioned, Federal trust relations were also ended under tribally developed plans on seven small rancherias of California. Progress toward eventual termination was reported for the Klamath Reservation in Oregon, the Uintah-Ouray Reservation (mixed-bloods) in Utah, the Catawba Reservation in South Carolina and 31 additional California rancherias. From a report on the Menominee Tribe we see the course termination legislation had taken:

> In September 1960 Congress amended the original 1954 termination act for the fourth time by granting the tribe an extension of the trust period from December 30, 1960 to April 30, 1961, but directing the Secretary to begin negotiations for private trustees immediately in order to be prepared to act in the event the tribe had not organized under its own termination plan by March 1, 1961.[49]

For its interesting insight into a program for final termination, I quote the comment on the Menominee termination:

> All provisions of the 1954 act having been complied with, Secretary Stewart L. Udall on April 29, 1961, proclaimed in

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[48] Fred A. Seaton, Remarks broadcast September 18, 1958, over Radio Station KCLS, Flagstaff, Ariz.

[49] *Annual Report*, Commissioner of Indian Affairs, 1961, p. 280.

the Federal Register the "termination of Federal supervision over the property of the Menominee Tribe of Wisconsin and of the individual members thereof" effective midnight April 30.

He also had published in the Federal Register the text of the "Plan for the Future Control of Menominee Indian Tribal Property and Future Service Function." This was important not only as a matter of public information, but was vital in the creation of Menominee County. Chapter 259 of Wisconsin's Laws of 1959 had provided that the State's 72d county should come into existence on the date of publication of the termination plan in the Federal Register, as required by the Act of June 17, 1954. On May 5, 1961, at Keshena, Governor Gaylord A. Nelson swore in and installed the first board members and officers of Menominee County and Menominee Town.

Meanwhile, early in 1961, bills had been introduced in Congress to postpone again the date of termination and to provide various types of Federal assistance to the Menominees following termination. As April 30 passed before action by Congress, there was no delay in the termination date. H. R. 4130, providing for a loan to Menominee Enterprises, Inc., and Federal aid to the State in providing essential education, health, and welfare services to the Menominee during the period of transition was still pending in conference between the Senate and House as the fiscal year ended.[50]

OTHER LEGISLATION OF THE PERIOD

Two laws were passed in 1953 to end discriminatory legislation relating to Indians that had been in force for many years. Public Law 281 referred to the purchase of firearms and the sale of agricultural implements. Public Law 277 concerned the sale of alcoholic beverages to Indians. The long-standing Federal prohibition against the sale of liquor to Indians off the reservations was ended. Within the reservations a system of local option was provided for, wherever laws of affected States would permit.

On August 5, 1954, President Eisenhower approved legislation that provided for the transfer of the health programs of the Bureau of Indian Affairs to the United States Public Health Service by July 1, 1955. Fifty-nine hospitals and other physical facilities plus about 25 percent of the total personnel of the Bureau that had been assigned to Indian health programs were involved in this transfer.

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[50] *Ibid.*, p. 281.

Legislation was also introduced calling for a similar transfer of the Bureau's agricultural extension program to the United States Department of Agriculture, but this failed to be enacted. The change was later effected, however, through administrative action.

Another phase of the "readjustment program," a term employed because Commissioner Emmons is said to have disliked the words "termination" and "withdrawal," was the enactment of Public Law 280. This law, passed on August 15, 1953, was hailed as one of the major developments contributing to a reduction of Federal responsibility in Indian affairs. A comment from the Annual Report of the Commissioner for 1954 follows:

> This law brought Indian lands in California, Minnesota (except for the Red Lake Reservation), Nebraska, Oregon (except the Warm Springs Reservation), and Wisconsin (except for the Menominee Reservation) under the criminal and civil jurisdiction of the five States mentioned and largely relieved the Bureau of further law enforcement duties in the affected areas. Some staff work was necessary, however, to facilitate the transition toward full assumption of jurisdiction by the States. The transfer, which was approved in advance by all five of the States and by the major Indian groups involved, produced no serious or outstanding problems during the fiscal year.[51]

Basically Public Law 280 was aimed at the rather confusing situation which prevailed in many Indian areas because they were located outside the ordinary jurisdiction of the State courts both in criminal cases and in civil actions. Essentially these Indian areas were islands of Federal or tribal jurisdiction surrounded by lands where normal State jurisdiction is in effect. While this unique pattern has worked fairly well in some areas, in other places it has led to a great many complicated legal problems and has often deprived the Indian people of the kind of effective law enforcement to which they are entitled.

The Bureau of Indian Affairs had been discussing this problem rather widely both with the Indian tribes and with the law enforcement officials of the several western and midwestern States involved. In five of the States—California, Minnesota, Nebraska, Oregon, and Wisconsin—the Bureau found that most of the Indian tribes and practically all of the State officials involved were agreeable to a transfer which would put the Indian areas clearly under the jurisdiction of the State courts in both criminal and civil matters. Accordingly, a number of bills that would accomplish this purpose were proposed to the Congress by the Department of the Interior, and these were eventually consolidated into Public Law 280. The jurisdiction given to the States was subject to a number of important limitations designed to preserve the trust protections which now surround Indian property, to maintain for the Indians any treaty rights they may have such as those involving hunting and fishing privileges, and to give full force of civil actions to tribal customs insofar as they are not in conflict with the State law.

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[51] *Ibid.*, 1954, p. 227.

CONSULTATION OR CONSENT

A special provision attached to the bill caused concern to Indian groups. This controversy is reported as follows:

> An amendment was made to the bill before enactment which provided for the assumption of jurisdiction by additional States over Indian country. This amendment was criticized by a number of Indian groups because it did not provide for Indian consent or consultation and they urged the President to veto the bill for that reason. When the President approved the bill, he stated that he did so because of the fact that its basic purpose represented an important step in granting complete political equality to Indians. At the same time, however, he requested the Congress to enact an amendment requiring consultation with Indian groups and Federal approval before additional States acted to assume jurisdiction under Public Law 280.[52]

Sections 6 and 7 of the law, authorizing any other States to take over jurisdiction on its Indian lands without the consent of the Indians involved, were opposed by Indians and Indian rights organizations. Although these sections seemed undesirable to the President when he signed the law, no bill was offered subsequently by his administration expressing this dissatisfaction.

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[52] *Ibid.*, pp. 342–44.

The arguments used by Indians and Indian rights associations centered around the "self-evident" truths embodied in the Declaration of Independence: "To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed." One writer argued:

> The principle of consent is vital to the welfare of democracy and essential to the health of religion. Consultation without the necessity of attaining consent is at best an empty gesture. At its worst it is a mask for coercion, which is the opposite of consent.[53]

With the basic assumption that Indians are American citizens primarily and secondarily members of Indian tribes the position of the Government was voiced by Interior Secretary Douglas McKay:

> Now let me say a few words about the principle of Indian "consent" which you emphasized toward the end of your letter. We must start, I believe, with the fact (stressed in your letter) that Indians are citizens and now have the privilege of the ballot in all 48 states. This means that they are represented in Congress just as other citizens are and that they have the same rights (which they frequently exercise) of petitioning the Congress and of stating their views before Congressional committees considering legislation. What you are proposing—and let us be quite clear about this—is that, over and above these normal rights of citizenship, the Indians should also have a special veto power over legislation which might affect them. No other element in our population (aside from the President himself) now has such a power and none ever has had in the history of our country. In short, it seems to me that the principle of Indian "consent" which you are urging so strenuously has most serious Constitutional implications. With full respect for the rights and needs of the Indian people, I believe it would be extremely dangerous to pick out any segment of the population and arm its members with authority to frustrate the will of the Congress which the whole people has elected.[54]

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[53] "Consultation or Consent?" *The Christian Century*, vol. LXXIII, no. 4, January 25, 1956.

[54] Douglas McKay, Letter to Oliver Le Farge, president of the Association on American Affairs, Inc., dated November 30, 1955.

The above view was expressed by the Secretary in a letter to Oliver La Farge, president of the Association on American Indian Affairs, Inc., in response to a letter written to President Dwight D. Eisenhower by Mr. La Farge. There had been no official congressional declaration on the matter of consent.

Although the Annual Report of the Commissioner for 1960 states that "no new legislation was enacted by any state pursuant to Public Law 280" [55] there was relevant action in 1961 in the State of Washington, where attempts to secure jurisdiction short of legislation were repulsed. This development is reported as follows:

> The jurisdiction of State courts over criminal acts by Indians within reservations was further narrowed during the year by several decisions by the Washington State Supreme Court. These cases involved offenses committed by Indians within such organized cities as Toppenish and Wapato. No trust Indian land was involved, but the cities are located within the boundaries of Indian reservations. In two of these cases, the State Supreme Court observed, significantly, that "We are aware of the difficulty our conclusions cause in the field of law enforcement . . . and of the related problems they raise . . . but the solution in this State lies in corrective legislation . . . not in unauthorized assumption of jurisdiction by our State Court." It seems apparent that the State Supreme Court believes that the jurisdictional questions in Washington can be resolved by appropriate legislation pursuant to Public Law 280, 83d Congress.[56]

The annual report also noted the rise of juvenile delinquency. Perhaps this development drew attention from the strictly jurisdictional problems. Programs to prevent such delinquency were reported on several reservations. In fact, the rise of juvenile problems in one area resulted in the Senate Appropriations Committee directing the Bureau of Indian Affairs to make a survey of the problem in the Pacific Northwest to determine its magnitude and the steps required to solve it.[57]

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[55] *Annual Report*, Commissioner of Indian Affairs, 1960, p. 204.

[56] *Ibid.*, p. 205.

[57] *Ibid.*

A "COOLING OFF" PERIOD

A shift in emphasis away from immediate termination is apparent toward the end of this period. Instead of continuing the push to achieve legislation, the Congress and the Department of Interior, and thus the Bureau of Indian Affairs, became more concerned about the necessary preparation which should precede termination. The Secretary of the Interior in a public address in Washington, D.C., March 31, 1960, explained what this preparation should be:

> I am absolutely convinced that it is an important part of our job to do our best to help every Indian prepare to meet the challenge of living off the reservation, if he decides to leave.
>
> Let me assure you that we have no thought whatever of trying to force Indian people off the reservations, or even of subtly persuading them to move against their will. That would be cruel and inhumane, and foredoomed to failure. I will have no part of it. Nor will I be a party to insisting that they remain on the reservation, no matter what.
>
> Experience teaches us that a very large percentage of the younger people are voluntarily seeking to make their livelihood away from the reservations. Therefore, it seems clear we must continue—as one of our primary goals in working with younger Indians—to provide them with an opportunity for a sound education. Education for every Indian child is now the keystone of our policies. It must be so in the future.[58]

Secretary Seaton goes on to mention other programs which aim at improving the situation of American Indians, and then concludes:

> All of these varied activities are aimed at one overriding objective.
>
> Simply stated, that objective is to provide our Indian citizens with adequate opportunities for personal development and growth so they can ultimately take whatever place they choose in the larger fabric of our national life. It is not to try to mold Indian people into some abstract image of what we think they ought to be. Neither is it to terminate special Federal protection and services for any tribe or group of Indians

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[58] Seaton, Address given at the Arrow, Incorporated, luncheon Washington, D. C., March 31, 1960.

> until they themselves are ready, prepared, and willing to take on the full responsibilities for managing their own affairs.
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> Encouraging as our progress has been of late years, I must warn that much more must be done before we can completely bridge the gap still separating so many Indian people from full participation in the benefits of modern America.[59]

Tribal programs tailored to the needs of individual groups continued to be implemented. Bigger-than-ever school construction programs were emphasized. The upgrading of libraries and the development of students' habits and skills in library use is mentioned in the Annual Report of the Commissioner for 1961.[60] Improved curriculum guides and additional teaching materials were put into use, and better teaching and improved techniques for achieving it were stressed.[61] Because of the accelerated efforts, some areas were able to report a notable improvement by Indians in the use of the English language.

Other changes brought about by legislation were focused on achievement of economic independence by Indian groups. Since land was still the Indians' most valuable commodity, the period saw important changes in policy regarding it. Public Law 450 made it easier for Indian landowners to obtain loans from commercial sources by permitting them to execute, with the approval of the Secretary of the Interior, mortgages or deeds of trust to allotted lands in trust or restricted status.

Generally under prior laws Indian lands could be leased for periods no longer than five years for some purposes and ten years for others. Exceptions had been made for certain tribes, but these were very few in number. The absence of authority to grant long-term leases discriminated against Indians who owned restricted lands that were suitable for the location of business establishments, residential subdivisions, summer homes, airports, or for other purposes that required a substantial outlay of capital by the prospective lessee. It also penalized Indian landowners of raw but potentially valuable farmlands on which the cost of subjugation was too great for the Indian himself to bear. In such cases prospective lessees were willing to undertake these expensive improvements only if guaranteed tenure by a long-term lease.

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[59] *Ibid.*

[60] *Annual Report*, Commissioner of Indian Affairs, 1961, p. 287.

[61] *Ibid.*

Another new law authorized trust or restricted Indian lands to be leased for specific purposes by the Indian owners, with the approval of the Secretary of the Interior, for a period of not more than 25 years (ten years in the case of farming and grazing), and for not more than one additional term of 25 years. Long-term leases for farming purposes were permitted only if the lessee was required to make a substantial investment in the improvement of the land for the production of specialized crops.

With the termination of two Indian tribes and some small groups, and with termination policy spelled out for other tribes and groups, the will of the Congress had been firmly expressed. The reaction to out-right termination had become so vociferous that the Congress decided to de-emphasize the application of its policy. Emphasis was now placed on the improvement of conditions for Indians to prepare them for eventual termination. As expressed by Oliver La Farge:

> . . . since we have deprived the Indians of the excellent opportunities for life, liberty, and the pursuit of happiness that they enjoyed before the Europeans came, we cannot, as Americans, rest content until we have restored that opportunity to them at least to the degree that other citizens have it.[62]

The pace of the Congress thus slowed down until the results of earlier termination were in or until the Indians were more adequately prepared.

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[62] Oliver La Farge, "Termination of Federal Supervision: Disintegration and the American Indians," *The Annals*, May 1957, p. 41.

CHAPTER EIGHT

INDIAN POLICY AND AMERICAN LIFE: THE 1960's*

President Thomas Jefferson wrote of the Indian: "The ultimate point of rest and happiness for them is to let our settlements and theirs meet and blend together, to intermix, and become one people . . ." Jefferson also expressed the opinion that the Indian should be willing to give the white man the land he wanted, since he felt there was more than the Indian needed, in exchange for what the Indian lacked, the white man's way of life: customs, education, religion, and technology.

In much of what has been done in the name of progress and policies for the Indians there has been a recurrence, on into the 1960's, of two factors alluded to by Thomas Jefferson in the paragraph above: (1) The people of the United States and their representatives in the Congress would be pleased to have the Indians choose to become assimilated, "to intermix, and become one people," as Jefferson put it. Citizens generally have not been able to understand why Indian citizens choose to live apart when it is such an apparent disadvantage in acquiring the "good things of life" possessed by the "average, middle class," non-Indian citizen of the Nation. (2) Certain business interests would like a share of the Indian's resources. Farmers and ranchers, for example, feel it is a kind of sin to have good crop or grazing land lay idle and available irrigation water not beneficially used. Business entrepreneurs feel similarly about other resources.

Secretary of the Interior Stewart Udall's Task Force on Indian Affairs, in the concluding statement of its July 10, 1961 report, expressed ideas reminiscent of those of Thomas Jefferson: "The proper role of the Federal Government is to help Indians find their

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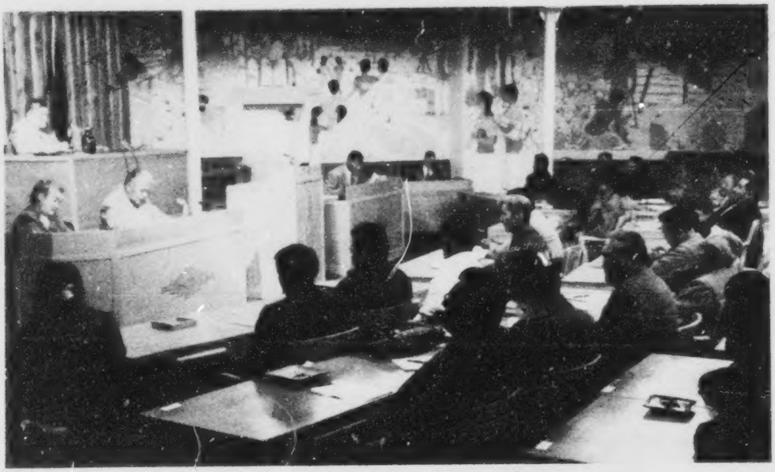
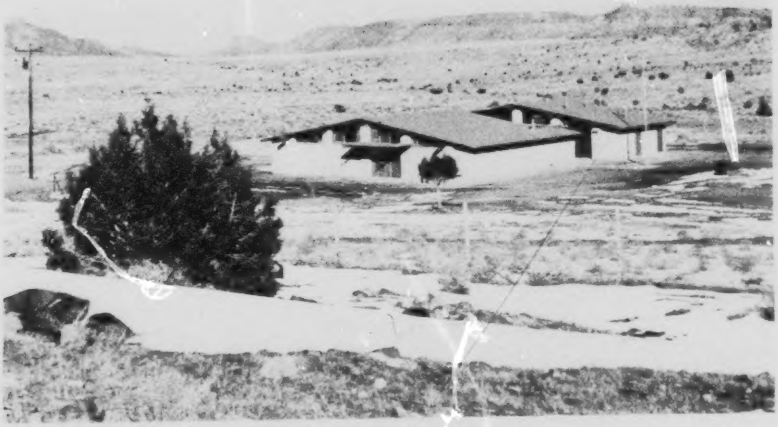
*From the beginning of the administration of President John F. Kennedy to the completion of the administration of President Lyndon B. Johnson.

Rio Grande Pueblo: Crowd at Taos awaits a footrace.
(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

Rio Grande Pueblo: Women and children beside traditional beehive type oven.
(Photo: Smithsonian Institution.)

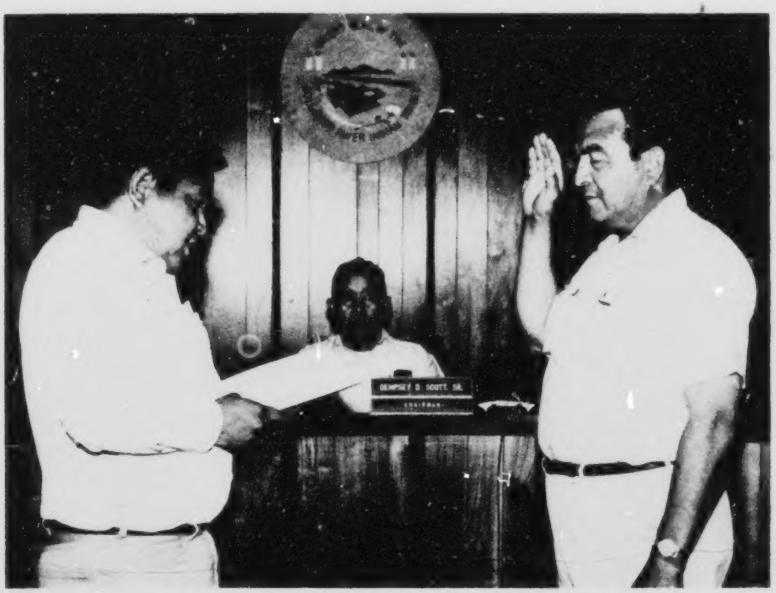


Navajo Tribal Council in session in 1954.
(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)



Teec Nos Pas Chapter House on the Navajo Reservation, February 1962.
(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

Navajo Tribal Chapter meeting at Indian Wells.
(Photo: Eugene H. Price, The Navajo Tribe.)



New tribal chairman being sworn in at the Colorado River Reservation, Parker, Ariz.
(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

Robert Lewis, Governor of the Zuni Pueblo, reports on the success of the Zuni plan in the auditorium of the Bureau of Indian Affairs.

(Photo. Bureau of Indian Affairs, U.S. Department of the Interior.)

Paul Smith, President of the Salt River Indian Community in Arizona, accepts the Meritorious Program Award of the American Institute of Planners on behalf of the Salt River Community. The presentation in Boston in 1972 marked the first time in the Institute's history the award had been given to an Indian community. Salt River was honored for its program to improve the social and economic conditions, facilities, and delivery of services in the community.

Paul Bernal (left) and Juan De Jesus Romero, both of the Taos Pueblo, N. Mex., watch as President Richard M. Nixon comments after signing into law H. R. 471 on December 15, 1970 which returned to the Pueblo about 48,000 acres of land and Blue Lake.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

Secretary of the Interior Rogers C. B. Morton and Commissioner of Indian Affairs Louis R. Bruce meet with newly formed National Tribal Chairman's Association in 1971. Left to right: Commissioner Louis R. Bruce, John Nelson Dee, non-association member, Navajo Tribe; Lucy Covington, non-association member, Colville Tribe vice chairman; Bob Jim, Yakima tribal chairman; Rogers C. B. Morton; Peter MacDonald, Navajo tribal chairman; Alvin Oliver, representative of Roger Jourdain, Red Lake Chippewa chairman; Terry Walker, Seminole chairman; Buffalo Tiger, Miccosukee chairman; Ann McAlear, representative of Don Wright, President of Alaska Federation of Natives; Edison Real Bird, Crow chairman; Bill Youpee, Fort Peck Sioux chairman; Benny Attencio, Executive Director of All Pueblo Tribal Council, Adrian Fisher, Colorado River chairman; Rev. Webster Two Hawk, Rosebud Sioux chairman; Clarence Skye, non-association member, executive director of United Sioux Tribes; Peter Jackson, Hoopa chairman; and Mrs. Clarence Acoya, non-association member, NCAI recording secretary.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

way along a new trail—one which leads to equal citizenship, maximum self-sufficiency, and full participation in American life." [1]

Only a few years ago, however, a Federal court held in the *Native American Church of North America* vs. *Navajo Tribal Council* (1959) that Indian tribes "have a status higher than that of states. They are subordinate and dependent nations . . ." The authority of these tribes to govern themselves originated in a period before there was a United States, and was recognized in treaties with the tribes. The Indian tribes retain this authority unless it has been specifically withheld by the Congress.[2] Why should tribes by choice give up such a favored position?

Indians as individuals have not only been able to choose but have chosen "equal citizenship, maximum self-sufficiency and full participation in American life" for over a hundred years. But few

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[1] "Report to the Secretary of the Interior by the Task Force on Indian Affairs," July 10, 1961, mimeographed, p. 77 (hereafter cited as *Task Force Report*, 1961).

[2] 272 Fed. 2d 131 (1959).

tribes given a free choice, have followed that "new trail." The United States has not yet developed a policy, or an effective program, that attracts Federally recognized tribal communities from the colonialism that typifies the past, toward the family of local communities that typifies relationships in the United States today. Whenever a transition is attempted the Indian tends somehow to lose his land and resources, and the tribal status tends to be broken up.

In such situations, many of the individual Indians remain in the same area they occupied as tribes, usually without their previously held land and other resources. Present conditions among Indians in the Chiloquin and Klamath Falls areas belie the readiness of the Klamath Tribe for termination. Although the Menominee experience is an interesting one that may hold some possibilities for transfers of tribal holdings from Federal to local status, it has been beset with difficulties, not the least of which is the development of a sound financial base for the new Menominee County in Wisconsin.

Theodore Stern, author of *The Klamath Tribe; A People and Their Reservation,* outlines in a paragraph the difficult position of the Indian in relation to his reservation, and of the Government planner who may be tempted by statements of policy to take too rapid and inappropriate action:

> For many Indian people reservations are a highly significant reality, constituting the only familiar homeland, the major continuity with the past, the sole real property, and the principal token of the government's resolution to honor pledges made long ago. At the same time, chosen with an eye to native exploitation or to the needs of the small farm of the nineteenth century, they are often unfitted to support a population by current standards. They thus pose the dilemma embodied in schemes on the one hand for local development and on the other for the relocation of Indian families. Sweeping measures are inappropriate; each reservation merits consideration in its own terms. Yet it would be shortsighted to seek only for material advancement, essential though this is; for, as the Klamath instance shows, unless the program gives men hope, they languish even in prosperity.[3]

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[3] Theodore Stern, *The Klamath Tribe; A People and Their Reservation* (Seattle: University of Washington Press, 1965), p. 266.

Some Indians do not find the white man's way of life attractive and will apparently continue to choose life on the reservation, if they remain free to do so, for an indefinite period of time. The fact that they have so chosen since the Europeans arrived almost a half millenium ago is evidence that must be taken into consideration.

"Self-sufficiency, and full participation in American life" for tribal communities, will require a "new trail" that will somehow allow the Indian residents within those communities to instill in their chosen leaders in tribal governments the confidence, initiative, imagination and patience to work out with their representatives in the Congress and with other Government officials both at the State and Federal levels, programs that fit within the policy framework and allow continuity and the freedom to be Indian to go on within these local communities while the Indians choose to have it so.

Tribal self-government under updated and carefully worded constitutions and corporate charters, with Indian leadership asserting all the rights these instruments make available to them in their relations with private and governmental agencies, is one route available for Indian tribes to follow. As the 1948 Hoover task force report on Indian affairs referred to in the previous chapter indicated, Indian self-government is *an experiment that has worked.*

FROM TERMINATION TO SELF-DETERMINATION

The 1961 "Program for Indian Citizens" of the Commission on the Rights, Liberties, and Responsibilities of the American Indian recommended that Indian tribes be permitted "to make their own decisions over a greater range of subjects. . . . In a word, the Bureau's aim should be to let Indians conduct their own affairs as soon as possible without supervision."

This summary report went on to point out that legally, Indian tribal governments have the right to review budgets submitted on their behalf by the Bureau of Indian Affairs, and to claim the privilege of assuming responsibilities and decision-making powers, when experience indicates that they are prepared to do so.[4]

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[4] Commission on the Rights, Liberties, and Responsibilities of the American Indian, *A Program for Indian Citizens* (Albuquerque: The Commission, January 1961), Summary Report.

The 1961 *Task Force Report* called for greater emphasis on the development of both human and natural resources on the reservations and a shift away from the discussion of tribal termination programs. At the same time, however, it recommended a withdrawal of Federal services to "Indians with substantial incomes and superior educational experience who are as competent as most non-Indians to look after their own affairs,"[5] a kind of individualized termination.

Tribal termination was an item for discussion during the April 1966 Congressional hearings on the "Nomination of Robert La Follette Bennett to be Commissioner of Indian Affairs" as successor to Commissioner Philleo Nash:

> House Report 2680 of the 83d Congress set forth a list of tribes who were found by the Bureau itself to be qualified for full management of their own affairs. The House committee expressed its opinion that steps should be taken to effect discontinuance of further operation of the Bureau on those reservations. In the intervening 12 or 13 years almost nothing has been done. If those tribes were prepared to go their own way more than a decade ago, the committee can only conclude that the Bureau is more interested in perpetuating its hold on Indians and their property than in bringing them into the mainstream of American life. Even when this committee in three specific instances requested legislation from the Bureau during the 88th Congress that would give these tribes the opportunity to be released from the web of paternalistic control and regulation, it was not furnished.[6]

The Senate Committee on Interior and Insular Affairs did not find fault with Mr. Bennett personally, and urged the Senate to confirm his nomination. This Committee asked, however, that Commissioner Bennett respond to their questions in a report to be submitted within 90 days.

On July 11, 1966 the report requested was submitted to Senator Henry M. Jackson, chairman of the Committee. Under the heading "Objectives of Federal Indian Programs," Commissioner Bennett gave official response to the Committee's statement in reference to termination:

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[5] *Task Force Report*, 1961, p. 7.

[6] *Nomination of Robert La Follette Bennett of Alaska to be Commissioner of Indian Affairs: Hearings Before the Committee on Interior and Insular Affairs* (Washington: 89th Cong., 2d sess., U.S. Senate, Committee on Interior and Insular Affairs, April 1, 1966), Senate Executive Report No. 1, pp. 4–5.

> In my talks to Indian people, I find that the Indian leadership accepts the fact that at some time the Congress will change their special relationship with the Federal Government. Until the Congress reaches that decision, hopefully with their consent, it is their wish that the Congress meet its responsibilities to them, the same as its national commitment to others, of maximum social and economic development; that the basis for determining readiness be prescribed, that the Congress further direct the States and other Federal agencies to provide them with the services to which they are entitled and guarantee to them the rights and privileges on an equal basis with other citizens. They respectfully request that in the development of criteria they be assured the right, if it is their decision, to own, hold and manage their property and the opportunity to maintain their Indian identity and culture.[7]

James Jackson speaking for the Quinault Tribal Council at a conference of Indian leaders held at Spokane, Wash., October 1966, expressed the Indian's concern that the Federal relationship be continued until the tribe decides it is ready for change:

> Some day we will speak to you of termination. By this word we do not mean termination of the Quinault Tribe or of any traditional rights. To us, termination means independence from bureaucratic control. That day will come when the Quinault Tribe has assumed active control of the land it now controls on paper. It will come when we are harvesting the economic benefits of the great resources we hold: when our governing body has an educated and competent leadership, and when our tribal civil and criminal jurisdiction is properly implemented through contractual relationships with federal and county governments. It will come when we are ready, and at our request.
>
> We have learned to put outboard motors on our dugout canoes and travel a distance up our river in two hours that formerly took three days. In the same manner we are now trying to put modern governmental procedure behind our

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[7] Report submitted to Senator Henry M. Jackson by Commissioner Bennett July 11, 1966, in response to a request made by the Committee on Interior and Insular Affairs, Senate Executive Report No. 1, cited above.

> great human and natural resources. When we succeed we will travel fast: if we don't succeed we will be lost.[8]

In his Special Message on "The Forgotten American" delivered to the Congress March 6, 1968, President Lyndon B. Johnson called for an end to discussion of tribal termination and proposed a "new goal" for the Government's Indian programs:

> A goal that ends the old debate about "termination" of Indian programs and stresses self-determination; a goal, that erases old attitudes of paternalism and promotes a partnership self-help.
>
> *Our goal must be:*
>
> *—A standard of living for the Indian equal to that of the the country as a whole.*
>
> *—Freedom of Choice: An opportunity to remain in their homelands, if they choose, without surrendering their dignity; an opportunity to move to the towns and cities of America, if they choose, equipped with the skills to live in equality and dignity.*
>
> *—Full participation in the life of modern America, with a full share of economic opportunity and social justice.*
>
> I propose, in short, a policy of maximum choice for the American Indian: a policy expressed in programs of self-help, self-development, self-determination.[9]

Senator George McGovern's extended effort to replace House Concurrent Resolution 108, the 1953 tribal termination policy statement, with language more representative of current congressional Indian policy, met with success September 11, 1968, when Senate Concurrent Resolution 11 was reported by Senator McGovern, without amendment. This resolution expressed the "sense of the Congress" that:

> (1) the deplorable conditions of the American Indians and Alaska natives can only be alleviated through a sustained, positive, and dynamic Indian policy with the necessary constructive programs and services directed to the governing bodies of these groups for application in their respective communities, offering self-determination and self-help features

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[8] "New Horizons," Indian Leaders Conference with Robert L. Bennett, Commissioner, Bureau of Indian Affairs, Spokane, Wash., October 17, 18, and 19, 1966, pp 223–224.

[9] Special Message on "The Forgotten American" by President Johnson to the Senate on March 6, 1968, p. 2.

> for the people involved; and that our Government's concern for its Indian citizens be formalized in a new national Indian policy so that beneficial effects may be continued until the day when the Nation's moral and legal obligations to its first citizens—the American Indians—are fulfilled;
>
> (2) modern-day needs of Indian people are no longer responsive to the programs and services of the two major Federal Indian service agencies alone (the Bureau of Indian Affairs and the Division of Indian Health), but the complete solution of Indian problems will require new and innovative services for the full development of Indian and Alaska native people and their communities, and that the Bureau of Indian Affairs, because of its traditional role in the Indian field, access to important records, and direct relationship with tribal officials, should be charged with the important responsibility of coordinating the wide range of Federal, state, and local resources; . . . and
>
> (6) American Indian and Alaska native communities should be given the freedom and encouragement to develop their maximum potential; and that Congress will support a policy of developing the necessary programs and services to bring Indians and Alaska natives to a desirable social and economic level of full participating citizens.[10]

An Indian student expressed his view of this philosophy in a poem:

> "We shall learn all these devices the white man has.
> We shall handle his tools for ourselves.
> We shall master his machinery and his inventions, his skills,
> his medicine, his planning;
> But we'll retain our beauty
> And still be Indian." [11]

RELOCATION BECOMES EMPLOYMENT ASSISTANCE

The 1961 Task Force Report also recommended that the United States "make available to Indians a greater range of alternatives which are compatible with the American system, and where necessary, to assist Indians with choosing from among these alternatives." It was further suggested that the Government "must mobilize and direct the vast reservoir of good will toward Indians which is found throughout the country."[12]

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[10] Senate Concurrent Resolution 11, 90th Cong., 2d sess., September 11, 1968.

[11] As quoted in "American Indians—A Special Minority," remarks by Commissioner Robert L. Bennett before the Institute of Race Relations, Fisk University, Nashville, Tenn., June 29, 1967.

Members of the Task Force recognized that Indians then considered relocation "as a primary instrument of the 'termination policy' which they universally fear." However, it was also pointed out that the Indians "unanimously endorsed some kind of placement activity, preferably one which would put emphasis on local (near reservation) employment."

It was, therefore, recommended that "increased emphasis should be put on local placement, with a much higher degree of cooperation between the Bureau of Indian Affairs and local agencies."[13] It was also recommended that the name of the program be changed, and in fiscal 1962 the program identified as Relocation Services became Employment Assistance. This new title was considered more descriptive of the services provided under the program.[14]

Employment assistance, thereafter, attempted to achieve the proper balance between institution, on-the-job, and apprenticeship training to meet the needs and desires of the Indian participants. The on-the-job training helped to prepare Indians for employment in new industries that have located near the reservations, and in other openings near their homes.

Indians willing to accept employment at a greater distance from the reservation were usually served by one of eight urban centers operated by the Bureau in Chicago, Cleveland, Dallas, Denver, Los Angeles, Oakland (now Alameda), San Jose and the office in Washington, D.C., where institutional and apprenticeship training with direct job placement services were made available.[15] Relocation for employment included financial help and advice to the family during the period of adjustment to the new environment as well as training and job placement.

From the time relocation services began in 1952 until the end of fiscal year 1967, "over 61,500 Indian people had been given help toward direct employment" under the program identified in fiscal 1962 as Employment Assistance. During the same period, more than 24,300 Indians received the benefits of the Adult Vocational Training Program. The Bureau estimated in 1967–68 "approximately 200,000 Indians have moved to urban areas in the past 10 years. . . ." [16]

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[12] *Task Force Report*, 1961, p. 77.

[13] *Ibid.*, pp. 16–17.

[14] *Annual Report*, Commissioner of Indian Affairs, 1962, pp. 38–39.

[15] "A Followup Study of 1963 Recipients of the Services of the Employment Assistance Program" (Washington: Bureau of Indian Affairs, October 1966), pp. 1–4, unpublished.

The Bureau of Indian Affairs originated four programs to assist Indians, or Indian families, with special training or adjustment needs, and cooperated with other Federal agencies on a fifth. The Indian, Aleut, or Eskimo from Alaska was thought to need some opportunity for adjustment to urban life before being assigned to one of the regular Employment Assistance offices we have mentioned. For them the Seattle Orientation Center acted as a kind of "halfway house" where they gained experience in shopping in modern stores, visited banks, post offices, and service agencies so much a part of modern community life, and possibly exchanged woolen winter clothing from Alaska for apparel appropriate to the region where they were to receive further training with Indians from the "Lower 48" States.

For other Indians, or Indian families, with special needs, training centers at Philadelphia, Miss.; Madera, Calif.; Roswell, N. M.; and the University of Montana at Missoula provided experience such as urban community living, food marketing, child care, general health care, home and money management, family life, social skills, basic or fundamental education, specific job skills, and preparation to make formal application for employment. These centers provided orientation and adjustment from rural, reservation to urban life with the entire family in mind.

Support for Public Law 959 (1956), enacted to provide vocational training and related employment assistance programs for Indians between the ages of 18 and 35, began with an appropriation of $3.5 million, and gradually increased. February 8, 1968, the authorization for annual appropriations was set at $25 million. Commissioner Bennett expressed the opinion that this was "one of the most helpful pieces of legislation ever approved to assist the Indian people." [17]

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[16] *Answers to Your Questions About American Indians* (Washington: U. S. Department of the Interior, Bureau of Indian Affairs, April 1970), pp. 18, 23.

[17] Friends Committee on National Legislation, *Report on Indian Legislation*, April 1968, p. 6.

Although many problems have been encountered by individual Indians during the process of adjusting from life on the reservation in rural America to life in a modern city,[18] Nancy Lurie and other investigators have concluded that "the option to assimilate is far more open for Indians than for almost any other minority." [19]

ECONOMIC DEVELOPMENT FOR INDIAN COMMUNITIES

As an alternative to termination and relocation, Indians and friends of the Indian groups recommended a variety of programs in the mid-1950's to develop and attract industry to the reservation. Again, this was not new. During the Collier administration there was a concerted effort to improve conservation methods and to further develop reservation resources. These programs were continued under subsequent commissioners, and Commissioner Glenn L. Emmons developed programs to attract industry to the reservations as well as relocation and termination programs that tended to diminish reservation populations or see reservations, through tribal termination processes, broken up and eventually eliminated as communities entitled to special Federal services.

During the 85th Congress, 1956, hearings were held on S. 809, "a bill to provide economic assistance to the American Indians;" Senate Concurrent Resolution 3 which was to be a new statement of policy by the Congress to replace House Concurrent Resolution 108, the termination policy statement of 1953; and S. 331, which would have reversed the effect of Public Law 280, also of 1953, and would have prohibited future extension of State criminal jurisdiction over Indian reservations except by permission of a majority of the Indians. None of this proposed legislation was enacted at that time.[20]

Patterned after President Truman's Point IV program, the legislation the Indians sought in S. 809 to finance the development of reservation resources asked for technical assistance to Indian communities similar to that then being provided for foreign developing nations. Implicit in these discussions was the idea that such funds should be made available directly to the reservation communities, and put to beneficial use under the direction of Indian tribal leadership, with the cooperation of the Bureau of Indian Affairs and of other Federal agencies.[21]

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[18] *Indians in Minneapolis* (Minneapolis: The League of Women Voters of Minneapolis, with the assistance of the Training Center for Community Programs, University of Minnesota 1968), 112 pp. Identifies and treats some of the problems Indians encounter in adjusting to urban life.

[19] Nancy O. Lurie, "The Enduring Indian," *Natural History*, (vol. 75, no. 9, 1966) pp. 10–22.

[20] *Federal Indian Policy: Hearings Before the Subcommittee on Indian Affairs* (Washington: 85th Cong., 1st sess., U. S. Senate, Committee on Interior and Insular Affairs, May 13 and 16, June 17, July 1 and 22, 1957), 295 pp.

The 1961 Program for Indian Citizens recommended that Indians be encouraged to request the assistance of competent technicians not only from the Bureau, but also "from other Federal and State agencies, universities, colleges, learned bodies such as the Social Science Research Council, as well as private citizens." In order to profitably use this technical assistance in the development of reservation resources "long and short-term loans and guarantees of loans should be made by the United States both to tribes and to qualified Indians needing capital." [22]

After serving as a member of the 1961 Department of the Interior Task Force, Dr. Philleo Nash became President John F. Kennedy's choice as Commissioner to put its recommendations into effect. He worked closely with governmental and other agencies to secure their cooperation in the development of the kinds of programs sought by Indian leaders. One important contribution of his administration was the achievement of success in securing legislative approval to have Indian reservations written into legislation primarily intended to benefit other local communities and depressed areas throughout the United States. Indian confidence in Commissioner Nash also resulted in the relaxation of some of the tensions that had grown out of the "termination" period.

In the Area Redevelopment Act (Public Law 87–27) approved May 1, 1961, we have an example of the way Indian reservations were specifically included in the law as areas potentially eligible to receive its benefits. The Bureau organized a Division of Economic Development in 1962, in accordance with the 1961 Task Force recommendation, with a charge to: (1) Improve the concentration and development of natural resources; (2) Encourage business and industrial development; (3) Give technical assistance to tribes and assist with land management practices; and (4) Develop a home building and public works construction program.

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[21] Harold E. Fey and D'Arcy McNickle, *Indians and Other Americans* (New York: Harper, 1959), pp. 197–200.

[22] *A Program for Indian Citizens*, 1960, pp. 16–21.

By 1965 over 40 tribes had been given technical assistance by this new economic development division in the preparation of Overall Economic Development Plans in order to qualify for loans, grants, and other services available under the Area Redevelopment Act (ARA). When the Economic Opportunity Act of 1964 created the Office of Economic Opportunity (OEO), and when the Economic Development Administration (EDA) further enlarged upon the possibilities available to Indian reservations, the Indian tribes had already gained some experience in participating in programs not established specifically for Indians as a result of the leadership exercised by Commissioner Nash.

Arrangements were made between the Bureau and the Department of Labor in 1962 to have the provisions of the Manpower Development Training Act made applicable to Indians. Actual participation was not possible, however, until 1963. Eighty-nine accelerated Public Works projects were begun in 1963 and 1964 on Indian reservations in 21 States. Twelve million dollars was made available to the Bureau in 1963 to meet a backlog of requirements and to provide employment for Indians.

From the mid-1950's to 1968 over 1,200 industrial enterprises were established on or near Indian reservations to furnish employment to between 4 and 5,000 Indians. Programs made available through the Small Business Administration (SBA) and the EDA have been utilized in a variety of imaginative ways to benefit individuals and communities on Indian reservations.

DEVELOPMENT CAPITAL

It is a known fact that an ingredient often lacking in the development of Indian resources is adequate risk capital. Considerable progress has been made in recent decades in expanding the available sources of funds, but there is need for greater expansion. The so-called "Omnibus Bill"—the proposed Resources Development Act of 1967—had these needs in mind, but the Indians failed to support this legislation because they felt it contained certain weakness such as the use of tribal lands to guarantee loans. More work will need to be done to obtain development capital that can be secured in a manner acceptable to the Indians.

Tribes that receive awards as a result of Indian claims cases continue to be encouraged to invest these funds in ways that will bring long-term as well as immediate benefits. Through fiscal year 1968 more than $216 million in awards had been made to tribes by the Indian Claims Commission. Sizable judgments may finance a variety of development programs that will bring income over a period of many years. Investments are also frequently made to secure educational benefits for younger tribal members. This also promises to bring sizable returns to more than the present generation.

A CHANGE IN FEDERAL INVOLVEMENT WITH INDIAN PROGRAMS

A Study conducted for the House Committee on Interior and Insular Affairs in 1958–59 determined that expenditures by the Federal Government on Indian Affairs from 1789 through fiscal year 1959 amounted to more than $2.8 billion.[23]

The budget for the Bureau of Indian Affairs in 1955, the last year Indian health was included, was almost $94.5 million. Federal expenditures for Indian affairs from all sources in fiscal year 1968 amounted to about $.425 billion. Of this, slightly more than half was in the Bureau of Indian Affairs budget and less than half in expenditures of other Federal agencies including the Division of Indian Health of the U. S. Department of Health, Education and Welfare (HEW).

The agencies most involved are the Department of Health, Education and Welfare; the Office of Economic Opportunity (OEO) (War on Poverty); the Department of Commerce; the Department of Housing and Urban Development (HUD); the Department of Agriculture; agencies of the Department of the Interior other than the Bureau of Indian Affairs; and the Department of Labor. The following examples show how assistance from some public and private agencies has been marshalled to benefit Indian tribes.

(1) To follow through on a recommendation of members of the Congress, a meeting on Indian education was held November 11–12, 1966 in Denver, Colo. Jointly sponsored by the Departments of Health, Education, and Welfare and Interior, the spon-

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[23] *Present Relations of the Federal Government to the American Indian* (Washington: 85th Cong., 2d sess., U. S. House of Representatives, Committee on Interior and Insular Affairs, 1959), Committee Print No. 38, pp. 20–21.

sors then learned that the Indians were not eager to have their educational programs transferred to another agency, but that they would like the Office of Education to assist with Indian education, and that Indians themselves would like to have more to say about the educational programs developed for their children.

During a gathering of Indian leaders called by the Department of Labor at Kansas City in February of 1967, HEW Secretary John W. Gardner raised the question of the transfer of Indian Affairs as a unit from the Department of the Interior to HEW. For a variety of reasons that included fear of termination and uncertainty of the competence of the new agency to handle land problems and insure fulfillment of treaty rights, the Indian leaders made it clear that they were not then in favor of the proposed change.

Because the department was becoming more deeply involved with health, education, welfare, and other programs that involved Indians, HEW created an Office for Indian Progress the latter part of 1967 to give leadership to its Department-wide effort on behalf of Indians. This office was given responsibility for the "formulation, implementation, and evaluation of a comprehensive Departmental strategy for program development; coordination with other agencies serving Indians; and the building and sustaining of effective communications with the Indian community."[24]

The agencies within HEW most directly involved with Indians are the Office of Education, the Public Health Service, the Social and Rehabilitation Service, and the Social Security Administration. A variety of task forces have been appointed to study the development of improved methods for the use of the resources of the specified agencies to benefit Indians.

(2) There has been cooperation between the Department of Housing and Urban Development, the Bureau of Indian Affairs, and the Office of Economic Opportunity in connection with various aspects of the development of the different housing programs on Indian reservations. After many years of neglect and inattention, in 1962, in cooperation with the Public Housing Administration, the Bureau brought low-rent housing to the Indian reservations. There were some 1,900 low-rent housing units "under manage-

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[24] The survey of Federal departmental involvements in Indian Affairs in the following pages occasionally quotes from the "Reports by Federal Departments on Plans to Implement Presidential Message of March 6, 1968" developed as a photo-copied handout for the first meeting of the National Council on Indian Opportunity held July 16, 1968, in the Treaty Room, Executive Office Building.

ment" on reservations as of December 31, 1967 (fiscal year 1968).

There were 1,444 insured FHA loans outstanding on single-family homes with a total value of $5.3 million as of December 31, 1967. Three hundred fifty-four loans were insured for $1.8 million in 1967 alone. FHA projects were underway on the Rosebud, Pine Ridge, White Mountain Apache, and Blackfeet reservations and for the Creek Nation (not a reservation) in Oklahoma in mid-1968.

Planning assistance, Model Cities planning, neighborhood programs, and research and development programs were also in progress in 1968 to assist several Indian reservations with support from HUD.

(3) The Economic Development Administration (EDA) of the Department of Commerce created an "Indian Desk" in the fall of 1967 to coordinate its relationships with other agencies in the development of Indian programs. The Office of Economic Opportunity, Bureau of Indian Affairs, Department of Housing and Urban Development, and Small Business Administration have all worked closely with EDA in developing reservation economic and industrial programs.

In addition to programs already under way on a variety of Indian reservations, in 1968 EDA, with the cooperation of the agencies mentioned above, began action plans for 15 selected reservations to be continued over a period of several years and updated "as the economic conditions of the reservations change and improve." It is anticipated that the implementation of programs for these selected reservations "will provide the necessary momentum to spur the economic growth of all Indian reservations."

(4) An "Indian desk" was created in the Manpower Administration of the Department of Labor "headed by a person of American Indian ancestry" with "major responsibility for the coordination of manpower activities between the Federal and State Governments industry, and the community-at-large to bring the Indian population into the mainstream of our economy."

Concentrated employment programs to include Indian reservations were developed in Idaho, New Mexico, Arizona, Montana, and Oklahoma. The Work Incentive (WIN) programs for welfare recipients provided "substantial assistance" to Indians, with the goal of removing them from welfare rolls into permanent employment, but the amount of money or numbers involved was not available since this, and other programs available to Indians and other ethnic groups, was not shown as a separate category in the Department's budget.

Neighborhood Youth Corps, Operation Mainstream, on-the-job training, and institutional training—as well as other categories under the Manpower Development and Training Act—also provided substantial assistance to Indians on and near reservations.

(5) The Department of Agriculture operates no programs designed specifically for Indians, but many that benefit Indian people. Most Indian reservations have a family food assistance program. As of early 1968 over 70,000 Indians were receiving commodities under the Needy Family Program.

The Forest Service provides regular employment for about 400 American Indians and summer employment for some 500 Indian youth under the Youth Opportunity Campaign. About 3,500 Indians in the Northern Plains area and the Southwest have part-time firefighting employment. Several reservations participate in range management, land use, and technical assistance programs. The Rural Electrification Administration (REA) through local electric cooperatives was estimated to have been serving over 26,000 Indians as of September 1966.

Indians of New Mexico, Oklahoma, South Dakota, Idaho, and Washington participate in several of the Department's soil and water conservation projects that serve those areas. During the mid-1960's about a million dollars in cost-sharing funds was made available to improve the productivity of Navajo rangelands. Other Indians, particularly in the Southwest, participate in these Agricultural Conservation programs. The Department cooperates with the Four Corners Regional Development Commission in projects to improve the economy of that area, which of course includes some 200,000 Indians.

The Farmers Home Administration extended about $8.6 million to Indians in loans during fiscal year 1967 for housing, farm operating expenses, farm ownership, and small non-farm enterprises. Several agricultural cooperatives with Indian membership received managerial and organizational assistance from the Department. Indians also participate in commodity programs, and, in the event of natural disaster, many Indians as well as other eligible farmers receive emergency livestock feed at reduced prices.

Agricultural Extension Service has for several years provided special programs to Indian people to improve family nutrition, improve housing, and to assist with agricultural and community development. In mid-1968, 84 extension workers were "providing training under contract to the BIA on specific reservations in 17 states having an Indian population of 313,582."

(6) A program that has had an important impact on Indian communities is the Office of Economic Opportunity (OEO) sponsored Community Action Projects (CAP) for Indian reservations. A group of Indian leaders came to Washington, D.C. in May of 1964 to attend a Conference on Indian Poverty. What they asked for was reminiscent of the "Declaration of Indian Purpose" produced by some 400 Indians gathered at a Chicago conference June 13–30, 1961.

People living in poverty in urban areas in1964 were often unorganized and represented a variety of interests and ethnic backgrounds, while on the Indian reservations the tribal councils as governing bodies were ready-made organizations already representative of entire communities living in poverty. Under OEO guidance, training and technical assistance in CAP formation was made available through three universities with past experience in working with Indian communities: Arizona State University served southwestern Colorado, New Mexico, Arizona, and California; the University of Utah served Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming; and the University of South Dakota served South Dakota, North Dakota, Nebraska, Iowa, Minnesota, Wisconsin, and Michigan.[25]

The idea of the creation of an "Indian desk" to pull together agency resources to serve Indian people was pioneered by OEO. Under the direction of this "Indian desk" a group of capable young Indians marshalled the resources of the universities to serve the leaders of the Indian communities and help with the establishment and development of a rich variety of programs under the CAP's.

An asset capitalized on by OEO from the beginning was the availability to CAP's of the resources of many pertinent Federal agencies. Some pioneering work was done with Indians in combining the use of these resources in imaginative ways to accomplish the goals of particular reservation programs. The following is given as only one example of the combination of Government and non-government resources to meet requests of Indian leaders for an effort to accelerate industrial development on Indian reservations.

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[25] These three universities formed a consortium to assist Indian CAP's, increased to six universities in 1968 with the addition of Bemidji State College, Minnesota, the University of Montana, and the University of New Mexico.

Early in 1967, a training program was scheduled to help tribal leaders take advantage of economic and industrial opportunities. Of 27 tribes invited to participate in meetings at Great Falls, Mont., 20 responded by sending a total of 57 tribal chairmen and council members. Eighteen of the 20 reservations that participated in this meeting submitted written requests for further training. The followup training was held on the individual reservations.

As a result of these individualized training programs, 15 tribal organizations developed packets of materials illustrating the resources and outlining the advantages to industry of locating on particular reservations. This material was developed for presentation by tribal leaders themselves to representatives of industry invited to a regional economic development conference held in Seattle, Wash. late in May 1967. In addition to the 15 tribes that made presentations, seven smaller tribes participated by sending 21 representatives as observers.

Several State, Federal, and private agencies participated both in the preliminary training period and the Seattle conference. Examples are local law firms, architectural designers, State universities, newspapers, chambers of commerce, the Bureau of Indian Affairs with its long experience in economic and industrial development of Indian reservations, Small Business Administration, Economic Development Administration, industrial employment policy specialists of the Department of Defense, other local and Federal agencies, and the prospective employers and industrial representatives that came to see the attractive brochures, maps, and other illustrative materials prepared by the tribes and to hear the Indians make their own presentations.

Later in 1967, with the support of the three university consortium and under their OEO grants, a book, the *Development of Indian Resources* was published under the authorship of Henry W. Hough, director of research for the National Congress of American Indians Fund. The purpose of the book was to allow Indian leaders throughout the United States to see how much was being accomplished by particular tribes in such various fields as farming and ranching; income from oil, gas, and other minerals;

forests, timber sales and wood products; fisheries and sport fishing; job training and factories in reservation areas; tourism and recreation; Indian culture; arts and crafts, Indian villages, fairs, rodeos, etc., as categorized by some of the book's chapter headings.[26]

In 1968 the National Congress of American Indians held two industrial conferences, one in Los Angeles, and one in New York City under the sponsorship of the Economic Development Administration and OEO and with the assistance of the Bureau of Indian Affairs, the consortium of universities, and other agencies, to give tribal leaders further opportunity to contact industrial leaders and encourage the location of plants on Indian reservations.

The OEO, through the Indian desk and the consortium of universities, worked with tribal leaders to develop a variety of other cooperative programs that involve "such problem areas as housing, health, education, and unemployment, thus providing opportunities for dealing with these problems at the grassroots level."

It is OEO's stated CAP philosophy that "each individual Indian tribe will operate at its own level of program sophistication and that program development itself will be an educational process." This is reminiscent of the suggestion of the *Meriam Report* in 1928 that the role of the Indian Service should be educational in the broadest sense, and that everything the Service does for or in cooperation with Indians, in groups or as individuals, should be for their experience and should, therefore, educate them toward more reliance on their own competence to make the best possible decisions for themselves.

A survey of programs developed in cooperation with Indian communities in the seven northwestern States by colleges and universities of the region revealed an unusual degree of commitment on the part of these institutions to nearby tribal groups.[27] The same pattern likely exists elsewhere in Indian country.

In reviewing the resources devoted to Indian affairs by Federal, State, and local agencies of government, and by many private agencies, both on an institutional and individual basis, we suggest that some progress has been made on the recommendation of the

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[26] Henry W. Hough, *Development of Indian Resources* (Denver: World Press, Inc., 1967). See note on title page, and Chapter 9, "Economic Progress Strengthened by OEO Community Action Programs," pp. 241–256.

[27] *Survey of Services to American Indians Through Institutions of Higher Learning in Seven Northwestern States* (Salt Lake City: University of Utah, Bureau of Indian Services, October 1967)

1961 Task Force to "mobilize and direct the vast reservoir of good will toward Indians which is found throughout the country." [28]

PROGRAM COORDINATION BY TRIBAL GOVERNMENTS

Through experience with this variety of Federal and local programs, Indian leadership—acting on its own behalf—frequently plays the role of coordinator of available services and selector of the best methods of securing maximum benefit from the variety of programs and services that can be made useful in the achievement of the goals and objectives of a particular tribe.

The Superintendent, as the local representative of the Bureau of Indian Affairs establishment, was once turned to as the sole source of information on a variety of questions that a sophisticated tribal council may now refer to their "own man," to a tribal attorney, a privately retained consultant, or any one of several other Federal or local agency representatives that may be close at hand or can be reached by telephone in a Government office building in a nearby city.

The tribal leaders may secure the services of a management firm or a planning agency to assist them with decisions concerning the development, management, or improved use of reservation resources. A tribal development committee, in addition to shepherding the utilization of its own resources, may cooperate with nearby cities or adjacent counties to attract tourists, improve recreation areas, or explore advantages to be found in working together on regional development programs.

The Federal Government of the United States has jealously guarded the right of Indian tribes to contract with State or local governments, and with private parties. Contracts with attorneys have been no exception. Sections 16 and 17 of the Indian Reorganization Act of 1934 confers upon organized tribes the right to employ legal counsel with "the choice of counsel and the fixing of fees" subject to the approval of the Secretary of the Interior. Approval of an attorney's contract was not to be withheld "capriciously or on purely arbitrary grounds," however.[29]

The availability of attorneys as employees of and advisors to tribal governments has brought about an interesting transition in the relationships between tribal leaders and Government officials. In their attorneys, tribal officials have had another person to turn to for interpretation of general laws and treaties that affect Indian tribes. The tribal attorneys have often been called upon for advice in areas where they know they lack competence. The use of consultants has often resulted, and Indian leaders have learned that no person is an authority on everything, thus the role of specialists to assist in the decision-making process has been further developed.

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[28] *Task Force Report*, 1961, p. 77.

[29] *Federal Indian Law*, 1958, pp. 486–487.

THE ISOLATION FACTOR IN INDIAN LIFE

As the movement from rural reservation to urban areas has been facilitated, and as the pace of change has increased on the reservation, tribes have felt the need to develop means of regular communication with members, wherever they might reside at a given time. Tribal newspapers, sometimes run from ditto masters, sometimes multilithed, and sometimes printed with frequent use of pictures and other illustrations, have been widely developed to meet this need. Without such communication it is possible for an Indian used to the closeness of tribal relationships to feel isolated culturally even in a large urban area.

Tribes are also curious about what is happening on other reservations, and rather extensive exchange lists have been developed to pass these newspapers from tribe to tribe. An OEO-university consortium project of the 1960's regularly distributed these papers throughout the West to help maintain a flow of information, and to assist with the generation and multiplication of good ideas. Instruction in journalism was given to assist with the development and improvement of devices for distribution of information through communication media on the reservations and in adjacent communities.

The spoken word is still very important in the flow of information and ideas on the reservations. Radio and television are usually available in many homes that do not subscribe to a newspaper.

The lack of improved roads and physical isolation still severely handicap many Indian reservations and native Alaskan communities in their ability to participate in activities usually taken for granted in American community life.

Health and education facilities, employment possibilities, markets for products, all are less available because of this isolation factor. Low population density tends to decrease the opportunity for the development of community services normally available to urban dwellers. Isolation also discourages broad social integration. However, even in isolation the range of regular communication with the world outside the reservation or community continues to increase, and many positive and negative features of the acculturation process continue to be accelerated.

Contacts at the State and local level have been increased through the establishment of State committees on Indian affairs. Such committees may include both Indian and non-Indian members appointed by the Governor, and frequently report either directly or indirectly to him. One of the functions of such committees is to see that the Indian's point of view is represented in State and local government and to cut across traditional agency lines and combine the assistance of a number of agencies to secure the kind of help an Indian tribe may need to accomplish its goals and objectives.

The Governors Interstate Indian Council, with a membership that includes both Indians and non-Indians, continues to meet and to express the point of view of the States with the larger Indian populations on Indian matters. A closer relationship between State Indian Affairs committees and the Governors Interstate Indian Council might encourage this combination to exert a greater thrust on behalf of Indian groups than it has heretofore.[31]

Through the decade of the 1960's, there was definite progress away from the negative philosophies typified by the Removal, Allotment, and Termination periods in the history of Indian Policy, and toward the more positive philosophies developed under the Indian Reorganization Act during the first years under Commissioner John Collier. Both Commissioners Nash and Bennett helped to lift the gloom that settled over Indian country during the Termination period, and helped Indian leaders to see that their decisions, their actions, and their determination would be the key that would unlock the door to future possibilities for Indian development.

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[31] For a specific treatment of the subject *The States and Their Indian Citizens* see Theodore W. Taylor's study by that title (Washington: U. S. Department of the Interior, Bureau of Indian Affairs, 1972).

CHAPTER NINE

SELF-DETERMINATION THROUGH INDIAN LEADERSHIP, 1968 TO 1972*

Some 200 years ago when Government officials offered to share ideas and techniques with a group of Indian leaders they responded in this manner: "You, who are wise, must know that different nations have different conceptions of things, and you will not take it amiss if our ideas happen not to be the same as yours."

Recent experiences have caused United States citizens to develop a greater respect for individuals from other cultures all over the world, and have taught us that we are not wise enough to make decisions for other people since we cannot "stand in their moccasins, or walk in their paths."

Through our contacts with peoples from outside the United States, we now understand better what these Indian leaders tried to tell us a long time ago. We are beginning to turn what we have learned inward, and to recognize that peoples of other cultures in our own Nation also have the right to be different, to have "different conceptions of things."

Presidential candidate Richard M. Nixon gave recognition to this idea in a 1968 campaign speech when he said, "American society can allow many different cultures to flourish in harmony," and Indians who wish to do so should be provided an opportunity "to lead a useful and prosperous life in an Indian environment."[1] The right of individual Indians to choose the path they will follow, and of Indian leaders to guide the affairs of their communities has become a keynote for policy decisions by his administration in the development of Indian programs.

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* From the completion of the administration of President Lyndon B. Johnson to June 30, 1972, in the administration of President Richard M. Nixon.

[1] From a campaign statement of President-Elect Richard M. Nixon released September 27, 1968, and reprinted in *Indian Record*, January 1969, pp. 1-2.

Mr. Nixon was not uninformed in regard to the difficulty administrators faced in actually securing recognition of the right of Indians to manage their own affairs when he came to the Presidency. As early as the 1960 campaign he had expressed his desire to see policies and actions shaped "in full harmony with the deepest aspirations of the Indian citizenry." [2]

It has taken us, as a people, a long time to learn that the "melting pot" tradition does not apply equally to everyone. The idea of eventual Indian assimilation became a basic ingredient of the policy of European governments after the earliest contacts. Inherited by the United States, only in recent years have national leaders had the courage to suggest that another approach might be worthy of consideration.

President Nixon's philosophy has also been expressed by administrators specifically charged with day to day program implementation. Commissioner Louis R. Bruce in October 1969, said, "What Indians need is more authority to make their own decisions," [3] and in June 1970, in connection with a definition of Indian self-determination: ". . . the action has to begin at the place where Indians are—on the reservations, in the local communities." [4]

Along with more specific proposals for legislation, President Nixon's Special Message to the Congress, July 8, 1970 affirmed the historic relationship between the Federal Government and Indian communities, guaranteed that it would not be abridged without Indian consent, and proposed that Indian communities be allowed to choose to take over control and operation of Federally-funded Indian programs.

The President added: "The time has come to break decisively with the past and to create conditions for a new era in which the Indian future is determined by Indian acts and Indian decisions." [5] In November 1970, Commissioner Bruce announced "a fundamental change in policy . . . [that hands] the right and the authority

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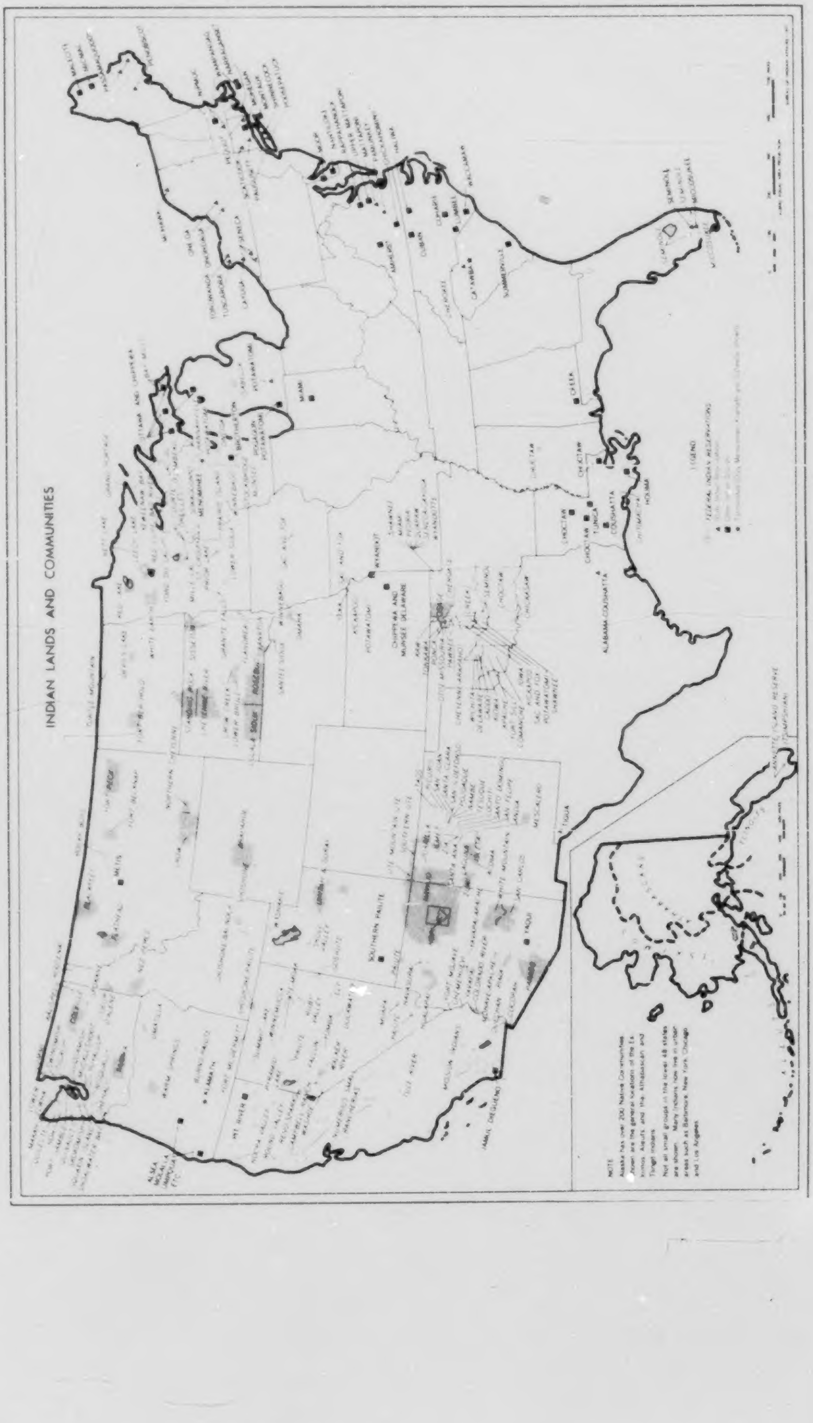
[2] Angie Debo, *A History of the Indians of the United States* (Norman: University of Oklahoma Press, 1970), pp. 341, 354.

[3] "The New BIA—The New Politics," Remarks of Commissioner of Indian Affairs Louis R. Bruce at a Dinner Meeting of Western Oklahoma Indian Leaders, Oklahoma City, Okla., October 24, 1969, p. 4.

[4] Remarks prepared for delivery by Commissioner of Indian Affairs Louis R. Bruce at the Governor's Interstate Indian Council Annual Meeting, Tulsa, Okla., June 11–13, 1970.

[5] Special Message of the President of the United States Richard M. Nixon to the Congress, from the White House, July 8, 1970.


INDIAN LANDS AND COMMUNITIES
LEGEND
NOTE
Alaska has over 200 Native Communities. Shown are the general locations of the Eskimos, Aleuts and the Athabascan and Tlingit Indians.
Not all small groups in the lower 48 states are shown. Many Indians now live in urban areas such as Baltimore, New York, Chicago and Los Angeles.
ANNETTE ISLAND RESERVE
TSIMSHIAN
SEMINOLE
MICCOSUKEE
CHOCTAW
CREEK
MIAMI
CATAWBA
COUSHATTA
ALABAMA-COUSHATTA
TUNICA
CHITIMACHA
HOUMA
LUMBEE
HALIWA
PAMUNKEY
MATTAPONI
ONEIDA
SENECA
TUSCARORA
CAYUGA
PASSAMAQUODDY
PENOBSCOT
MALISEET
MIC MAC
WYANDOT
MENOMINEE
POTAWATOMI
WINNEBAGO
SAC AND FOX
OMAHA
SANTEE SIOUX
OGLALA SIOUX
ROSEBUD
LOWER BRULE
CROW CREEK
STANDING ROCK
CHEYENNE RIVER
FORT BERTHOLD
TURTLE MOUNTAIN
DEVILS LAKE
RED LAKE
WHITE EARTH
LEECH LAKE
FORT PECK
FORT BELKNAP
ROCKY BOY
BLACKFEET
FLATHEAD
CROW
NORTHERN CHEYENNE
WIND RIVER
UINTAH & OURAY
SOUTHERN PAIUTE
NAVAJO
HOPI
ZUNI
FORT APACHE
SAN CARLOS
PAPAGO
PIMA
YAQUI
MESCALERO
TIGUA
NEZ PERCE
YAKIMA
COLVILLE
SPOKANE
UMATILLA
WARM SPRINGS
KLAMATH
PYRAMID LAKE
WALKER RIVER
DUCKWATER
HOOPA VALLEY
ROUND VALLEY
FORT MOJAVE
COLORADO RIVER
CHEMEHUEVI
MISSION (INDIANS)
SOBOBA
CHEYENNE-ARAPAHO
KIOWA
COMANCHE
WICHITA
CADDO
DELAWARE
APACHE
OTOE-MISSOURIA
PAWNEE
PONCA
TONKAWA
OSAGE
CHICKASAW
SEMINOLE
SHAWNEE
QUAPAW
PEORIA
KICKAPOO
IOWA
CHIPPEWA AND MUNSEE DELAWARE
TAOS
PICURIS
SAN JUAN
SANTA CLARA
SAN ILDEFONSO
ACOMA
LAGUNA
ISLETA
SANDIA
SANTO DOMINGO
JEMEZ
ZIA
COCHITI
JICARILLA
SOUTHERN UTE
UTE MOUNTAIN UTE
ALSEA, SIUSLAW, UMPQUA, ETC.

to Indian communities and tribes to take part in the planning and operation of activities that touch their everyday lives."[6] Programs for leadership development, Indian preference for employment and advancement in the BIA, and Indian direction of educational opportunities for Indian youth are considered some of the basic elements necessary to the achievement of stated policy changes.

INDIAN LEADERSHIP FOR INDIAN PROGRAMS

Over 40 years ago the writers of the *Meriam Report* suggested:

> The people of the United States have the opportunity, if they will, to write the closing chapters of the history of the relationship of the national government and the Indians. The early chapters contain little of which the country may be proud. It would be something of a national atonement to the Indians if the closing chapters should disclose the national government supplying the Indians with an Indian Service which would be a model for all governments concerned with the development and advancement of a retarded race.[7]

There has been a multitude of studies and subsequent reports recommending reorganizations of the Bureau of Indian Affairs with various suggestions of where it should be placed in the governmental structure to best serve Indian interests. Alvin M. Josephy, Jr. analyzed some of these and added his own recommendations in a report to the White House February 11, 1969.[8]

The Josephy report would have, as a first choice, taken the Bureau of Indian Affairs out of the Interior Department and placed it in the Executive Office of the President. As second choice it recommended that it be left in the Interior Department but under a new "Assistant Secretary for Indian and Territorial Affairs." President Nixon recommended the latter approach in his Special Message of July 8, 1970, and requested legislation from the Congress, not yet enacted, to achieve the purposes outlined.

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[6] Report of a statement of "Proposed Changes in Structure and Policy of the Bureau of Indian Affairs," made by Commissioner Louis R. Bruce November 24, 1970, with an extension of remarks, as cited in the *New York Times*, December 3, 1970.

[7] *Meriam Report*, p. 51.

[8] The manuscript version of this report by Alvin M. Josephy, Jr., is titled "The American Indian and the Bureau of Indian Affairs—1969. A Study, With Recommendations." The letter of transmittal and the manuscript bear the date February 11, 1969. A printed version appears in Alvin M. Josephy, Jr., editor, *Red Power. The American Indians' Fight for Freedom.* (New York: American Heritage Press, 1971), pp. 105–139.

In addition to the Indian Commissioner, other Indians were appointed to key posts in the Bureau's Washington headquarters to assist with the executive realignment necessary to make Federal Indian services more responsive to the needs expressed by Indian leaders.[9]

The President informed administrative officials as well as the Congress that he felt the time had come to make changes that would put Indians in positions where their actions and their decisions would actually give direction to Indian programs. He also outlined a process which would result in Indian control and operation of federally-funded programs at the reservation level, when Indian people informed Government agencies that they were prepared to take control.[10]

In the reorganization of the National Council on Indian Opportunity (NCIO) to function under the leadership of Vice-President Spiro T. Agnew, the President enlarged the membership to include eight Indians and eight leaders of the Federal Government.[11]

The Indian members, with staff support, carried a list of the President's legislative proposals to Indian leaders in two series of meetings: the first to inform Indian people throughout the country and leave copies of the proposals for their study; and the second to secure reactions and to invite suggestions for revision, or for new proposals.[12]

In these recommendations made to the Congress then carried by NCIO to Indian leaders, the President asked for (1) a new Concurrent Resolution that would "renounce, repudiate and repeal" the termination policy outlined in HCR 108 of the 83rd Congress, (2) support for voluntary Indian control of Indian programs with the necessary technical assistance from the Government to facilitate transfers of responsibilities. (3) restoration of the sacred lands near Blue Lake, New Mexico, used for tribal and religious purposes by the Indians of Taos Pueblo, (4) recognition of the right of and support for Indian communities to take over Indian schools, establish Indian school boards, to receive funds and to contract for the operation of schools, (5) economic development legislation through the "Indian Financing Act of 1970" to enable Indian leaders to arrange for the development and use of national resources, (6) additional appropriations to improve health programs for Indians and Alaska natives, and to expand efforts to train Indians for health careers, (7) strengthening of efforts of Government agencies to deliver services needed to assist Indians living in urban centers, (8) and the establishment of an Indian Trust Counsel Authority "to assure independent legal representation for the Indians' natural resource rights" and to avoid conflicts of interest within Government agencies. The President also asked the Congress for the new Assistant Secretary for Indian and Territorial Affairs already mentioned above.[13]

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[9] Department of the Interior News Release, October 18, 1970.

[10] President's Special Message, July 8, 1970.

[11] *New York Times* article September 6, 1970. Also lead story in *Indian Record*, October 1970. President Johnson called for the establishment of the NCIO in his Special Message of March 6, 1968. Vice-President Hubert Humphrey was the first Chairman.

[12] National Council on Indian Opportunity, *Transcript of Regional Hearings on President's Indian Message July 8, 1970 and on Attendant Legislative Package* (Washington: Office of the Vice President, September 9, 1970 to December 18, 1970), 4 vols.

The two NCIO sponsored series of meetings held in October, November, and December 1970 resulted in a report of widespread approval of the "intent" of the legislative proposals, and a variety of negative reactions to details relating to particular proposals and to specific language within these proposals.[14] One response heard periodically went something like this: "We've heard this kind of thing before; now we'll sit back and wait to see the results." [15] One result was forthcoming. The Congressional measure returning the Blue Lake area to the Indians of Taos Pueblo was signed by the President December 15, 1970.[16]

To further demonstrate the determination of the Administration to achieve an organization capable of changing the BIA from a management to a service agency a series of personnel changes were announced in November 1970, designed to make Area Offices more responsive to Indian needs and to place the authority to make decisions as close to tribal leaders as possible.[17] However, the details of these announced changes were not implemented.

A personnel rotation policy was announced to enable the Central Office and tribal leaders to secure the services of individuals that would facilitate the development of a program to effectively meet the needs of particular Indian communities. The Area Offices were to furnish technical service and act in a staff and advisory as well as an administrative capacity to Government and tribal officials at the reservation level.

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[13] President's Special Message, July 8, 1970.

[14] *NCIO NEWS*, January 1971.

[15] Transcript of Hearings on President's Indian Message, passim.

[16] Many newspaper articles, and *Indian Record*, December 1970–January 1971.

[17] Secretary's News Release, November 25, 1970.

The Preston report submitted by a survey team to Secretary Morton May 27, 1971, as a "Management Review of the Bureau of Indian Affairs" stated in relation to personnel rotation that the announced policy had resulted in lack of support from the field, and that methods used in its application had been ill advised.[18]

Organizational change is usually difficult to accomplish, and this effort was not an exception. Opposition began at once among BIA employees, some tribal leaders, and some members of the Congress. Within 30 days hearings were conducted by both the Senate and House Committees on Interior and Insular Affairs. Most committee members were reacting favorably to the statements of Commissioner Bruce and his associates before the hearings were completed, but a note of caution was extended to guide BIA actions in securing the implementation of the program.[19]

As a further step to place capable Indians in leadership roles in the development of Indian programs, the Indian desk concept, after experimentation and successful operation in OEO, was extended to the Departments of Commerce; Housing and Urban Development; Labor; Health, Education, and Welfare; Agriculture; and Justice. In February 1971 an Indian was also appointed to the staff of the Senate Committee on Interior and Insular Affairs as a consultant on Indian Affairs.[20] In March an Indian woman was appointed Special Assistant for Indian Affairs to the Secretary of the Interior.[21]

Thus, effort continues to make the Bureau of Indian Affairs and other Government agencies more responsive to the needs of Indian communities, to provide support to enable Indian leaders to assume added responsibilities in the management of tribal resources and programs, and to give these leaders the power and authority that will make the role of the leader count in the eyes of the people. For as President Nixon put it in a report to the Congress in 1971: "Let's face it. Most Americans today are simply fed up with government at all levels. They will not—and should not—continue to tolerate the gaps between promise and performance in Government."[22]

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[18] *Ibid.* Also Department of the Interior News Release, November 27, 1970, with accompanying "Statement on the Development and Indian Involvement in New BIA Policies." Also see the report of Edward F. Preston, Chairman of a Management Assistance Survey Team, to Secretary Morton, May 27, 1971, with the title "Management Review of the Bureau of Indian Affairs."

[19] Stenographic Transcript of Hearings Before the Committee on Interior and Insular Affairs, House of Representatives, Tuesday, December 8, 1970, on the subject "Bureau of Indian Affairs Reorganization"; and before the same Committee of the Senate, December 16, 1970, on the subject "Proposed Changes in Structure and Policy of the Bureau of Indian Affairs."

[20] *NCIO NEWS*, February 1970.

[21] *NCIO NEWS*, March–April 1971.

One thing we know; we respect a leader who has the ability to produce. If we make it impossible for him to produce we have destroyed the leader in the eyes of his people. If he is retained in a position of authority without power, the people learn to develop new channels around him to the known source of power.

To allow a situation of powerlessness and lack of authority to develop in a position where responsibility has rested is to create a break in the decision production line, and in the line of authority. This is what occurred in the 19th century when the Government took the authority and the power in tribal affairs away from the traditional leaders by making it impossible for decisions to be made without the approval of the Indian Agent, later designated the Superintendent.

With the Indian Reorganization Act of 1934, certain rights and authority to make decisions were returned to Indian leaders, but some still needed the Superintendent's sanction if not outright approval, and others needed to be forwarded to the Commissioner through an Area Office and an Assistant Commissioner.

The Congress has charged the Secretary of the Interior with carrying out the trust responsibility in relation to Indian land and income derived from that land. This responsibility often seems in conflict with the concept of self-determination. Reservation Indian leadership tends to support the retention by the Secretary of the trust responsibility. Other Indians sometimes chafe at the review required, and the periodic denial, as a result, of particular requests by individual Indians and by tribes, and occasionally express the feeling that the phrase "with the approval of the Secretary of the Interior" is subject to over-use.

As a result of experience gained in various tribal, State, and Federal programs a trained and educated Indian leadership is available to staff many positions where decisions are made in Indian communities and in agencies at all levels of Government that serve Indians as well as other communities throughout the United States.

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[22] From the report of President Richard M. Nixon to the Congress on the State of the Union, January 22, 1971.

In recent years the Ford Foundation leadership training program, along with administrative and management training programs made available within the Government itself, has given important assistance in equipping Indian leaders with the abilities to meet the exigencies of our times. An Indian was chosen as White House Fellow for 1969–70, and another Indian was named a Fellow for 1971–72.

There are Indian artists, authors, doctors, lawyers, businessmen, teachers, educational administrators, university professors, and coaches. A Navajo is the President of the Navajo Community College and other Indians are taking the leadership in the Deganawidah-Quetzalcoatl University (D.Q.U.) for Indians and Chicanos (Mexican Americans) near Davis, Calif.

The last two Commissioners of Indian Affairs have been Indians and many of the top officials are Indians, as well as a number of Area officers and Superintendents. Over 50 percent of the regular employees of BIA are also Indians, but a much smaller though steadily increasing percentage are employed in management level positions.

INDIAN PREFERENCE

The policy of giving Indians preference for employment in the BIA is based upon Section 12 of the Indian Reorganization Act of 1934, which extends preference to "qualified persons of at least one-fourth degree or more Indian blood." A 1971 BIA study found that Indians were given preference as the law authorized in cases of initial employment and reinstatement, but not in relation to training opportunities or promotions.

Secretary of the Interior Rogers C. B. Morton's approval of Commissioner Bruce's recommendation for further expansion of Indian preference, which had been in the Department since September 1971, came on June 23, 1972. The new policy extended Indian preference to the filling of vacancies "whether by original appointment, reinstatement or promotion," with the change to be effective immediately.

Secretary Morton anticipated negative reactions from "non-preference" Federal employees, and stressed in his June 23rd announcement that "careful attention will be given to protecting the rights of non-Indian employees." Almost immediately an unfair labor practice charge was placed by the National Federation of Federal Employees.

Under the new policy it is expected that a qualified Indian candidate will be given preference for initial employment in newly created positions, to fill a vacancy, for reinstatement, for training opportunities in preparation for advancement, and for promotions. If an Indian preference candidate is not available, a non-Indian may be appointed, but documentation must be provided to demonstrate effort to identify Indian candidates.

The June 23rd announcement stated: "The new policy is in support of President Nixon's program for Indians, and is designed to enable Indian personnel in the Bureau of Indian Affairs to progress as rapidly as their capabilities allow."[23]

The 14 athletes appointed to the American Indian Athletic Hall of Fame at Lawrence, Kan. give evidence of Indian abilities and leadership in that field, and a special issue of the *Indian Record* for November 1970 gave credit to the many Indians that have won distinction for leadership on the battlefield or through other military service. There are potential Indian leaders available.

Although Native Americans are a minority even among the ethnic minorities of the United States where there are about 23 million Blacks, 20 million Germans, 19 million English, 13 million Irish, 9 million of Spanish-Mexican background, 7 million Italians, 4 million Poles, and 2 million Russians,[24] Indians have many distinctions in addition to the fact that they came here first, and the leaders that have come from among them have achieved honors far out of proportion to the percentage of Indians comprised in the total population.

In the words of President Nixon, "increasing authority and responsibility over programs affecting them" should be achieved by Indian people "with minimum bureaucratic restraint."[25]

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[23] Department of the Interior News Release June 23, 1972, "Interior Expands Policy of Indian Preference in Bureau of Indian Affairs."

[24] Based on 1970 Census surveys relating to nationality groups.

[25] *Indian Record*, January 1969, pp. 1–2.

INVOLVEMENT OF INDIANS WITH FEDERALLY FUNDED SCHOOLS

The 1960's were a period of intense examination of educational programs for American Indians.[26] By the end of the decade there had not been enough change in the basic position of Indian powerlessness, however, to bring any definitive change in the educational programs for Indians. But some things had become more clear:

> It is not just the Indian who has learned from us, there is much to be learned from him—the values inherent in group identity; respect for nature; the right of men to participate in the institutions that affect their lives; and that no policy or program, regardless of how well intended will succeed without his approval.[27]

Early in his administration Commissioner Bruce stressed increased educational effort on behalf of Indian youth by Indian leaders and Indian parents. As he said in relation to the Indian people:

> Youth dominates our population. About 75 percent of all American Indians are under middle age, and nearly half of all Indians are still of school age.
>
> Unless these young people are given every chance to acquire the knowledge and skills demanded of modern man, they will be no more in a position to govern Indian affairs than were the generations of Indians before them.
>
> Until Indians are in charge of Indian affairs, the affairs of Indians will remain as bewildering and as belittling for Indians as they have in the past.
>
> So we must place the accent upon youth. . . . be visionary enough to carry them into the future with appropriate skills and knowledge . . . yet practical enough and stimulating enough to hold their attention today.[28]

With greater exposure of Indians generally to education, there has developed an increased interest on the part of Indian parents in the educational content of programs in the schools their children attend. The school board idea, long a basic feature in public education, has been applied in recent years to Indian schools. Demonstration schools have experimented with and given encouragement to greater parent participation. The Bureau of Indian Affairs, with its "Project Tribe," expanded this experimentation by inviting particular tribes to become entirely responsible for their school program and to arrange for an Indian "takeover" on a contractual basis.

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[26] "NIYC [National Indian Youth Council grant from Carnegie Foundation] Conducts Study of Indian Schools." *The Amerindian*, March–April, 1968; also see the various reports referred to in *Indian Education: A National Tragedy—a National Challenge*. (Washington: A report of the Senate Committee on Labor and Public Welfare pursuant to S. Res. 80, 91st Cong., 1st sess., 1969).

[27] Estelle Fuchs, "Time to Redeem an Old Promise," *Saturday Review*, January 24, 1970, p. 75.

[28] "Accent on Youth," remarks by Commissioner Louis R. Bruce to the Seneca Indian Nation, February 3, 1970.

This program assumed that financial support on a level at least as great as in previous budgets would continue to come to a tribe initiating such a contract with the Bureau of Indian Affairs. It was believed that local control would make these schools more responsive to local needs as expressed by the Indian school boards.

A set of guidelines was developed for the transfer of Bureau schools to local Indian boards of education. A National Indian Education Advisory Committee to Bureau schools established in 1967 continued to work with the Bureau in the development of this program.

Many BIA schools in Alaska, on the Navajo Reservation, and elsewhere throughout Indian country organized local Indian advisory school boards during 1968–69. Former Commissioner Robert L. Bennett had expressed the hope that nothing would be done by well-wishers "to jeopardize the concept of Indian involvement in decisions about the education of their children."[29] Recent experience with this program promises that his "hope" will be realized. However, the Indians realizing the magnitude of the educational functions have, so far, moved cautiously in contracting for this responsibility.

Under the administrative direction of Navajo tribal officials the Navajo Community College opened its doors to Navajo students in January 1969. It was supported by grants from OEO and a number of other public and private organizations, with assistance from the Navajo Tribe, the Bureau of Indian Affairs, and other agencies. Federal support has continued, and a new and more adequate campus is now under development. It is anticipated that this will become a model for other community colleges that will serve rural and tribal populations elsewhere in the United States and in other Nations.

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[29] "Commissioner's Comments," *Indian Record*, May 1969, p. 1.

In a special issue of the *Indian Record* devoted to Indian youth, March 1969, Commissioner Bennett called upon school administrators of the Bureau of Indian Affairs to give student leaders not only training but actual experience in the responsibility of leadership. Student leadership is now given a "more important place in school administration particularly in those areas which affect student life." [30]

Of a total of over 200,000 Indian children of school age from reservation communities during the 1969–70 school year, some 141,000 attended public schools and approximately 52,000 were enrolled in Bureau schools. There were about 11,000 in mission and other private schools. Of the 212 BIA schools in operation in 1970, 135 day schools and 77 boarding schools were reported. Increasing emphasis has been placed on opportunity for Indians as non-Indian students to remain under the daily influence of their parents while they attend school. Numerically, however, the adjustment in that direction still has far to go.

Three Bureau schools at Rough Rock and Blackwater in Arizona and the Ramah Navajo Community School of New Mexico were operated contractually by Indian communities. The three schools had a total Indian enrollment of 750 students.[31]

Early in 1970 the creation of an Indian Education Sub-Committee of the National Council on Indian Opportunity was announced, and an Indian educator was employed as a regular member of the NCIO staff to work with this sub-committee.[32]

A total of 10,055 Indians were enrolled in colleges and universities during 1970. About $3,848,000 was made available in BIA grants to assist over 3,000 students to attend college. Help was given to a limited number of graduate, married, and urban-based students for the first time. There were demands that this kind of assistance be considerably increased.

In 1970–71, support was extended by the BIA to some 6,500 college level students, and was further expanded to reach about

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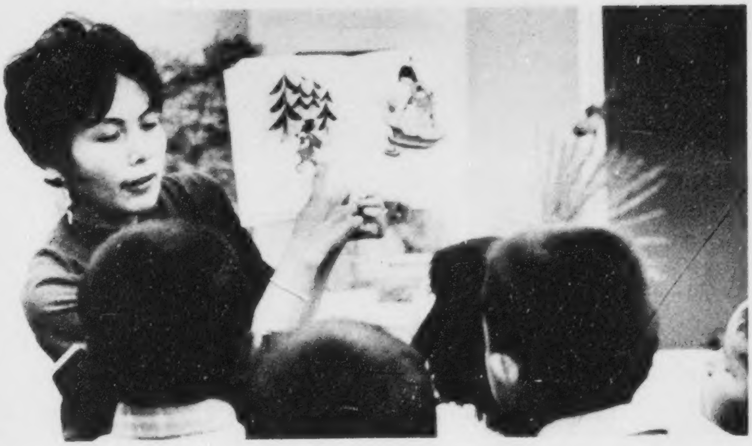
[30] "Commissioner's Comments," *Indian Record:* Special: Indian Youth, March 1969, p. 1.

[31] Education statistics cited above were secured from manuscript reports of the Bureau of Indian Affairs for 1969 and 1970.

[32] *NCIO NEWS*, February and March–April issues, 1971.



An Indian teacher teaches Indian children in a Bureau of Indian Affairs school from a text that ties-in with the Indian children's heritage and daily life.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

Eliseo Concho reading to second grade Taos Pueblo Indian students in a boarding school dormitory.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

"The Twilight Lesson." Blind Fish Walgrabe, age 95, fullblood member of the Blackfeet Tribe and his wife Berrywoman listen to their grandson Willie Sharp, 11, also a member of the Blackfeet Tribe, read from a book on Indian lore in their home in Browning, Mont.

(Photo: Eugene Saurez, Sr., for Bureau of Indian Affairs, U.S. Department of the Interior.)

10,500 students in 1971–72 with a proposed budget of nearly $16 million. The anticipated budget of $20.9 million for fiscal year 1973 will enable the Bureau to fund some 14,000 students.[33]

During fiscal year 1972 the BIA continued to help finance graduate programs in law for Indian students, and assisted with graduate programs for school administrators at four major universities. A post-high school educational consortium was formed within the BIA to provide better communication and a more effective student referral system between Haskell Indian Junior College, Southwestern Indian Polytechnic Institute, Institute of American Indian Arts, and Chilocco Indian School.[34]

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[33] Indian Affairs 1971: A New Direction. Manuscript copy of the proposed annual report for 1971. (Hereafter cited as Indian Affairs 1971, Ms. copy.) Includes information from anticipated budget for FY 1973.

In fiscal 1972 the BIA financed eight Federal schools operated by Indian corporations, 75 other educational programs operated by tribal groups . . . and 200 BIA schools with Indian advisory school boards or education committees.[35] Two reservations, Pine Ridge and Rosebud, started tribally controlled community colleges.[36]

For the 1970's, it is a matter of policy that Indian parents should have the responsibility for the shaping and content of educational programs designed for Indian youth. It has been strongly recommended that the educational committees appointed from Indian leadership by BIA and NCIO be given the necessary power to truly influence funding agencies, and to assist parents and local Indian leaders in their efforts to shape and improve schools that teach Indians under public and private as well as Bureau education programs. Attention has been called to the fact that urban Indians now comprise a large percentage of the total Indian population, and that the special needs of their children, as well as the children from reservation communities, need to be considered and dealt with as part of the total program. This assumes of course that adequate funding will be made available to the necessary agencies to do the total job.[37]

During recent years special grants from BIA, OEO, and other Government and private agencies have involved Indians in the development of a variety of enrichment programs that include not only making additional materials on their own cultures available, but also sharing experiences of an intercultural nature with other tribes, with other minority groups, and with the native peoples of the Pacific.

As the number of Indian youth completing high school and going on into the colleges and universities has increased, and as the demand for more adequate materials to reflect the role of the minority groups in the development of American life has grown, Indian educational leaders have become ever more deeply involved in various kinds of ethnic, Native American or American Indian studies programs at these institutions. Support has been developed for programs to document the history and culture of Native American groups from their own point of view. American Indian scholars have combined their efforts as a body, and by particular professions, to improve opportunities for Indian youth to gain access to what has seemed to them the more exclusive professions. Funding agencies have centered in on certain fields where leadership is particularly in demand such as educational administration, law, and medicine.[38]

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[34] Indian Affairs 1971, Ms. copy.

[35] Remarks by William L. Rogers, Deputy Assistant Secretary of the Interior for Indian Affairs, at Fort Sill Indian School, Lawton, Oklahoma, September 1, 1972.

[36] *Ibid.*

[37] Robert J. Havighurst, *The Education of Indian Children and Youth*, a summary report and recommendations of the National Study of American Indian Education by its director. (Chicago: University of Chicago, December 1970); also see the report and recommendations of the NAACP Legal Defense and Education Fund, Inc., *An Even Chance*, made in cooperation with the Center for Law and Education, Harvard University, 1971.

The new ingredient that is making itself felt, and that needs to be given even more consideration in Indian education, is that Indian leadership is now available to help shape the kinds of programs that will be useful to Indian communities and to Indian youth on an individual basis. It is a goal of national Indian policy to give this leadership every opportunity to fulfill functional roles.

A statement of "Policy Direction" by BIA early in 1972 made the point that not only schools were susceptible to operation under contract, but also various other programs such as:

1. Statewide JOM [Johnson O'Malley] contracts for supplemental financial assistance to public schools enrolling large numbers of Indian children.
2. Higher education grant programs.
3. Various programs funded through the Titles of the Elementary and Secondary Education Act.
4. Summer educational programs.
5. Early childhood education programs.
6. Alternative education programs for out-of-school Indian youth.

It was also announced that four additional Federal schools were to be contracted to Indian Communities for the 1972–73 school year. Further applications from other communities were also expected during fiscal year 1973.

The Office of Economic Opportunity, the U. S. Office of Education, and the Office of Child Development continue to be involved with the BIA in the development of participating funding to assist with "contractual operations with Indian communities for the operation of educational programs."

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[38] As a partial example see report of OEO Indian Division, *op. cit.*, pp. 11–17 and passim.

BIA officials stated in 1972 that as a matter of Bureau policy it was important "to become truly responsive to the needs of Indian children and parents." [39] For the 70 percent already in public schools the road was through public schools, some of which had Indian school board members. Indian surveillance of the use of Johnson O'Malley funds for Indian education should help. More local input for BIA schools was sought through advisory school boards and contracting for the operation of the school.

That there is strong support for education programs from Indian parents and Indian youth is illustrated by the following advice from Navajo Tribal Chairman Peter MacDonald as he spoke to some 800 Indian youth gathered at an education conference in Salt Lake City, Spring 1971: "Bring back experience, knowledge, and service. We need you. The people need you, not just the Navajos, but all other Indian reservations."

A theme repeated frequently at the conference made it clear that the young Indians expected to succeed in the white man's world but continue to maintain their cultural identity. "We are proud to be Indians," this phrase ran. "A new day for the Indian people is at hand." [40]

CHANGES AND TRENDS IN NATIVE AMERICAN POPULATION DISTRIBUTION

Significant changes in the location and composition of the Indian ethnic minority within the United States today can be understood better if we compare the 1970 Census data with information available from previous decades.

If we assume that there were 800,000 to a million Native Americans in what is now the United States prior to the European conquest, and that this declined to about 250,000 during the period from 1850 to 1900, we can understand why Indians were then referred to as as the "vanishing Americans." [41]

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[39] From BIA Policy Statement on Indian Control of Education Programs, Early 1972.

[40] *National Observer*, May 3, 1971.

[41] For discussion of Indian population estimates see J. Nixon Hadley, "The Demography of the American Indians," in *American Indians and American Life (The Annals*, American Academy of Political and Social Science, May 1957), pp. 23–30; and H. F.

A 20 percent increase had been reported from the 1940 to the 1950 Census, another increase of over 40 percent for the 1960 Census, and still another 50 percent increase for the decade from 1960 to 1970. New methods of identification and of gathering Census data, and recently a new pride in Indianness are given as partial explanation for these tremendous leaps forward. Whatever the reason, the preliminary 1970 count for Indians, Aleuts, and Eskimos stood at 827,091 compared to 551,669 for the 1960 count.[42]

Almost half of the Native Americans now live in five States: Oklahoma, Indian population, 97,731; Arizona, 95,812; California, 91,018; New Mexico, 72,788, and Alaska, 51,528; for a combined total of 408,877.

Four of these five States could be expected to be at the top of the list in terms of numbers of Indians, but New Mexico has been replaced in third position by a new arrival, California. The unusual increase in California's Indian population is partially a result of the urban Indian movement of the 1950's and 1960's.

By adding 13 more States with an Indian population of over 10,000, we find that approximately 85 percent of the total United States Indian population, or 700,178 Indians, live in 18 of the 50 States. Every State in the Union, however, has some Indians. Vermont, with 229, has the fewest, but that number represented a drastic increase over the 57 in that State according to the 1960 Census.

Of the ethnic groups within the population that can be identified from Census data, those showing the most rapid rate of increase are: American Indians, 51 percent; Chinese, 83 percent; Filipino, 95 percent; and all others (mainly Koreans, Hawaiians, Malayans, and other Polynesians), 130 percent. While the Indians do not show the fastest rate of increase, their 51 percent is more than four times the 12 percent of the White race in the United States.

Another significant difference is a median age of about 17 years for Indians compared to about 29 years for the total population of the United States. This would mean, as one example, that relative to total population there are approximately 10 percent more Indians in the 5 to 19 (school age) bracket than in the general population of the United States. Also, that there are com-

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Dobyns and H. P. Thompson, et. al., "Estimating Aboriginal American Population" (*Current Anthropology*, 1966), pp. 395–449; with accompanying notes.

[42] Preliminary 1970 census counts of American Indians and Alaska Natives, compared to 1960 census counts.

paratively fewer Indians in the productive years, from 25 to 65, but also comparatively fewer senior Indian citizens over age 65.[43]

Another new factor involving the relationship of Indians to the general population, is that only about 26 percent of the approximately 200,000 school age Indian children that lived on or near reservations in 1970 attended schools operated by the Bureau of Indian Affairs. Of the remainder, 68 percent attended public schools operated by State and local governments, and 6 percent attended other schools. Children of Indians living in urban areas, possibly another 125,000 not included in the number indicated above, would also attend public schools located in the urban communities where they reside.

One significant change in the distribution of the population of the Native American is the trend toward greater urbanization that has occurred in the last few decades. The Bureau of Indian Affairs reported in 1968 that about 200,000 Indians had moved to urban areas in the previous decade.[44] Estimates projected from the 1970 Census suggest that there are presently between 350,000 and 400,000 urban and other Indians not connected with Federal reservations.

The States that show the largest percentage increases in numbers of Indians tend to be those where they have been attracted to the cities: California, Colorado, Florida, Illinois, Michigan, Missouri, New York, Ohio, Pennsylvania, Texas, etc. The number of Indians in New York City, to give one example, increased from the 4,366 counted in the 1960 Census, to 9,921 for the 1970 Census.

An analysis of the Indian population of California (91,018 according to the preliminary 1970 Census count) reveals that 71.5 percent of the Indians counted live in two clusters of counties: in the San Diego-Los Angeles-Santa Barbara cluster, which includes seven counties, there is a population of 42,845 Indians of which an average of 31.6 percent live in one major city in each of these seven counties; in the San Francisco-Oakland-Sacramento cluster, which includes nine counties, there is a population of 22,236 Indians of which an average of 49 percent live in one major city in each of these nine counties.

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[43] *Illness Among Indians*, 1965-69. (Washington: U. S. Department of Health, Education, and Welfare, July 1971).

[44] *Answers to Your Questions About American Indians, op. cit.*, p. 23, estimated that approximately 200,000 Indians had moved to urban areas in the past decade.

If 40,000 or more of those Indians in the final rolls in the California Indian claims case live in California, as some have estimated, either many of them did not identify as Indians in the past (the 1960 Census only showed 39,014 Indians for California), or the Census counts were very inaccurate. This would also suggest that the in-migration of Indians that have come to California to stay in recent decades either may not have been as great as we thought, or possibly there is a continuous movement of considerable numbers, but not necessarily always including the same individuals, from reservation to urban area, then back to the reservation, back to the urban area, and on indefinitely with each group continually feeding and enriching the other.

Our analysis of California Indian population figures also suggests that there are still many Indians residing in comparatively smaller cities and towns as well as on or near the reservations, rancherias, and in other rural areas. The large cities such as Los Angeles, San Diego, San Francisco, and Oakland are—according to the 1970 Census count—certainly not the only places in California where Indians reside, as public statements would sometimes lead us to believe.[45]

While the number of urban Indians has increased dramatically in the United States, the 1960's have also seen an increase of over 100,000 in the number on or near reservations or Alaskan villages: this in the face of the Bureau's Relocation and Termination programs of the 1950's and 1960's. Between 475,000 and 500,000 Native Americans probably fit in the reservation-Alaskan village category today.

Most of the Indians live in the West. In some States they are an element to be reckoned with in political contests at the county and State levels. Indian tribes also control significant resources sought after by both public and private agencies for the development of some western States.

The following list shows the preliminary 1970 Census count of American Indians and Alaska Natives by State, and includes the 1960 count for comparative purposes. While Native Americans comprise only 0.4 percent of the total population of the United States, their impact has tended to be disproportionate because they are the first Americans.

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[45] For several years the figure of about 60,000 Indians has been used for the Los Angeles area. By the 1970 Census, however, only 42,845 Indians were counted for the entire seven county southern California region referred to above.

PRELIMINARY 1970 CENSUS COUNTS OF AMERICAN INDIANS AND ALASKA NATIVES

State	*1970 First Count*	*1960*
UNITED STATES	[1]827,091	[2]551,669
Alabama	2,514	1,276
Alaska	[2]51,528	42,522
Arizona	95,812	83,387
Arkansas	2,041	580
California	91,018	39 014
Colorado	8,836	4,288
Connecticut	2,222	923
Delaware	656	597
District of Columbia	956	587
Florida	6,719	2,504
Georgia	2,455	749
Hawaii	1,126	472
Idaho	6,687	5,231
Illinois	11,413	4,704
Indiana	3,887	948
Iowa	2,992	1,708
Kansas	8,672	5,069
Kentucky	1,599	391
Louisiana	5,366	3,587
Maine	2,195	1,879
Maryland	4,258	1,538
Massachusetts	4,475	2,118
Michigan	16,854	9,701
Minnesota	23,128	15,496
Mississippi	4,113	3,119
Missouri	5,405	1,723
Montana	27,130	21,181
Nebraska	6,624	5,545
Nevada	7,933	6,681
New Hampshire	361	135
New Jersey	4,706	1,699
New Mexico	72,788	56,255
New York	28,330	16,491
North Carolina	43,487	38,129
North Dakota	14,369	11,736
Ohio	6,654	1,910
Oklahoma	97,731	64,689
Oregon	13,510	8,026
Pennsylvania	5,533	2,122
Rhode Island	1,390	932

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[1] Includes total of 35,252 Aleuts and Eskimos, partly estimated.

[2] Includes total of 28,078 Aleuts (5,755) and Eskimos (22,323).

PRELIMINARY 1970 CENSUS COUNTS OF AMERICAN INDIANS AND ALASKA NATIVES–*Continued*

State	*1970 First Count*	*1960*
South Carolina	2,241	1,098
South Dakota	32,365	25,794
Tennessee	2,376	638
Texas	18,132	5,750
Utah	11,273	6,961
Vermont	229	57
Virginia	4,904	2,155
Washington	33,386	21,076
West Virginia	808	181
Wisconsin	18,924	14,297
Wyoming	4,980	4,020

SOURCE: Unpublished data from the 1970 Census supplied by Bureau of the Census.

NATIVE AMERICANS AS AN URBAN MINORITY

There have been Indians living in cities in the Americas for a very long time, but the employment opportunities that existed during and after World War II, and the policy of the BIA to assist with relocation and employment since 1950 has accentuated a new trend in that direction for Indians in the United States.

It has been estimated that as many as two thirds of the approximately 40 percent of the Indian population that has left the reservation probably did so on their own.[46] That is they did so without active assistance from BIA programs, and without taking advantage of, or in some cases not feeling the need for, special vocational training.

On August 30, 1968 Commissioner Bennett reacted to comments and suggestions from urban Indian groups by establishing an ad hoc committee that included Indian representation to undertake a field study of urban Indian programs and report back by December 31, 1968. The report was to include recommendations for action.[47]

The committee contacted a number of Indian organizations and urban centers and received written statements from some of them. After hearing Indian concerns expressed, it seemed apparent that

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[46] Debo, *op. cit.*, pp. 343–4.

[47] Memorandum of Commissioner Robert L. Bennett to Deputy Commissioner Theodore W. Taylor, August 30, 1968. Subject: Special Study of [urban] Indian Problems.

NUMBER OF AMERICAN INDIANS, BY TRIBE, FOR THE UNITED STATES AND SELECTED STATES: 1970
(Data based on 20-percent sample. Figures shown for States with Indian population of 10,000 or more)
(U.S. Department of Commerce, Bureau of the Census)

Tribe	*United States*		*Selected States*									
	Number	*Percent*	*Total*	*Alaska*	*Arizona*	*Calif.*	*Illinois*	*Mich.*	*Minn.*	*Mont.*	*New Mex.*
Total, all Indians	763,594	100.0	646,706	16,080	94,310	88,263	10,304	16,012	22,322	26,385	71,582
Apache	22,993	3.0	21,776	4,245	10,515	2,089	155	42	6	41	2,963
Blackfeet	9,921	1.3	8,833	5	47	910	82	76	32	5,415	48
Canadian and Latin American	7,282	1.0	5,777	1,112	1,709	930	100	147	27	—	20
Cherokee	66,150	8.7	52,334	113	519	9,491	922	858	182	82	456
Cheyenne	6,872	0.9	6,449	—	41	473	16	—	15	2,383	56
Chickasaw	5,616	0.7	5,256	5	72	625	27	7	—	—	30
Chippewa	41,946	5.5	40,016	58	121	1,621	994	4,191	15,502	2,680	43
Choctaw and Houma	23,562	3.1	18,560	7	145	2,747	228	61	19	13	175
Comanche	4,250	0.6	3,839	—	40	506	28	—	15	—	40
Creek, Alabama and Coushatta	17,004	2.2	14,289	5	184	1,630	188	71	—	35	19
Iroquois: Mohawk	6,105	0.8	4,981	8	8	301	60	505	29	38	29
Oneida	5,673	0.7	5,182	5	5	192	375	247	48	—	31
Seneca	4,644	0.6	4,231	7	15	218	16	11	—	5	6
Onondaga, Tuscarora, Cayuga, and Wyandotte	5,051	0.7	4,529	—	15	306	27	209	39	6	20
Kaw, Omaha, Osage, Ponca, and Quapaw	6,849	0.9	4,317	—	83	581	14	13	54	5	66
Kiowa	4,337	0.6	4,042	—	168	224	19	—	—	—	120
Lumbee	27,520	3.6	26,391	11	—	78	22	92	—	4	—
Menominee	4,307	0.6	4,184	—	6	64	296	37	52	—	—
Navajo	96,743	12.7	93,436	70	44,306	4,770	318	58	23	23	37,450
Papago and Pima	16,690	2.2	16,563	—	14,964	1,357	18	—	—	—	52
Potawatomi	4,626	0.6	3,338	—	39	335	114	965	—	5	12

Pueblo: Hopi	7,236	0.9	7,029	—	5,823	582	31	—	—	—	294
Keresan	10,087	1.3	9,836	—	429	515	29	—	5	39	8,636
Tanoan	6,342	0.8	6,114	6	207	342	13	5	—	—	5,293
Zuni	7,306	1.0	6,922	3	179	899	36	51	—	5	5,425
Seminole	5,055	0.7	3,755	19	—	340	41	14	6	16	75
Shoshone, Northern and Southern Paiute and Chemehuevi	14,248	1.9	6,283	9	555	4,085	23	37	11	40	52
Sioux (Dakota)	47,825	6.3	42,055	144	294	3,455	358	296	1,731	2,786	154
Tlingit and Haida	7,543	1.0	7,381	5,910	33	336	38	—	16	15	—
Ute	3,815	0.5	2,448	—	65	252	—	—	7	4	53
Yakima	3,856	0.5	3,799	10	32	106	—	—	—	7	16
Yuman	7,635	1.0	7,441	4	2,746	4,432	20	—	5	—	31
All other tribes	92,962	12.2	76,077	2,193	855	19,965	843	3,317	494	10,204	464
Tribe not reported	161,543	21.2	119,243	2,131	10,090	23,506	4,853	4,702	4,004	2,534	9,453

— Represent zero.

NUMBER OF AMERICAN INDIANS, BY TRIBE, FOR THE UNITED STATES AND SELECTED STATES: 1970

(Data based on 20-percent sample. Figures shown for States with Indian population of 10,000 or more)
(U.S. Department of Commerce, Bureau of the Census)

Tribe	*New York*	*No. Car.*	*No. Dak.*	*Okla.*	*Oregon*	*So. Dak.*	*Texas*	*Utah*	*Wash.*	*Wisc.*
Total, all Indians	25,560	44,195	13,565	96,803	13,210	31,043	16,921	10,551	30,824	18,776
Apache	203	33	9	746	120	4	278	54	209	64
Blackfeet	506	37	7	89	306	50	151	13	994	65
Canadian and Latin American	290	11	—	10	45	—	561	29	734	52
Cherokee	1,613	6,075	50	27,197	848	50	2,663	81	868	266
Cheyenne	—	20	—	2,914	11	134	135	32	214	5
Chickasaw	21	—	5	3,772	26	11	595	—	52	8
Chippewa	267	186	6,721	65	598	498	133	26	1,372	4,940
Choctaw and Houma	53	30	—	12,859	144	12	1,868	51	100	48
Comanche	23	15	—	2,743	7	—	378	16	28	—
Creek, Alabama, and Coushatta	81	32	18	10,960	68	—	863	47	68	20
Iroquois: Mohawk	3,873	22	5	56	5	—	11	9	16	6
Oneida	557	42	35	10	15	—	10	5	18	3,587
Seneca	3,340	43	—	464	43	—	37	—	26	—
Onondaga, Tuscarora, Cayuga, and Wyandotte	3,543	5	5	169	21	8	62	—	57	37
Kaw, Omaha, Osage, Ponca, and Quapaw	26	5	33	3,153	58	52	125	—	41	8
Kiowa	5	—	—	3,051	38	—	394	13	5	5
Lumbee	18	26,059	33	25	—	—	19	—	30	—
Menominee	17	5	—	4	24	59	18	—	10	3,592
Navajo	22	69	—	306	221	14	676	4,903	172	35
Papago and Pima	10	—	—	66	27	11	23	15	20	—
Potawatomi	4	—	—	1,006	47	44	147	—	102	518
Pueblo: Hopi	48	4	—	39	38	—	59	84	27	—

Keresan	61	—	7	17	—	—	85	9	—	4
Tanoan	4	6	—	20	4	14	164	26	10	—
Zuni	4	—	—	65	27	—	113	74	36	5
Seminole	208	18	—	2,821	9	—	160	—	17	11
Shoshone, Northern and Southern Paiute and Chemehuevi	48	4	11	100	440	79	29	505	237	18
Sioux (Dakota)	282	144	3,655	348	471	26,090	420	148	1,071	208
Tlingit and Haida	30	—	—	5	88	—	—	—	910	—
Ute	—	3	5	40	30	—	11	1,972	—	6
Yakima	—	—	5	211	330	—	25	—	3,053	4
Yuman	35	34	—	20	16	—	11	17	70	—
All other tribes	1,556	599	1,602	9,617	5,970	455	1,187	265	14,090	2,401
Tribe not reported	8,812	10,694	1,359	13,835	3,115	3,458	5,510	2,157	6,167	2,863

— Represent zero.

the BIA needed to become more broadly involved with urban Indian needs, concerns, and self-help programs. It was suggested "This involvement can be as limited as establishing local citizens advisory groups or as extensive as by organizing urban Indian groups for contracting with the Bureau of Indian Affairs to operate portions of the program." [48]

These Indian groups then felt a definite lack of BIA advocacy for and support of Indian interests in relations with private and Government agencies encountered in the local urban setting. It also became apparent that the same support was needed for young Indians seeking a college education as had been secured for those interested in vocational training. Better counseling at the high school level was called for to help Indian students make wiser educational choices.[49]

Lacking support from Government agencies to meet a wide variety of needs that developed for Indians living in centers of population over the years, urban Indians organized centers, clubs, etc., on their own initiative in cities such as Chicago, Omaha, Milwaukee, Minneapolis, Cleveland, Tulsa, Washington, D.C., Denver, Gallup, Phoenix, Los Angeles, San Francisco, Seattle, and Anchorage.

Having learned to use these self-help routines in establishing such independent organizations Indians also began to exert this new-found initiative on other occasions, and for other worthy causes. The urban Indian minority is not silent. Using peaceful but so-called militant methods on occasion young urban Indians have recently gained national attention for the Indian cause by a 19 month "siege" of Alcatraz Island and by occupying other abandoned Government installations. Sit-ins in Government offices have been used to protest discrimination against Indians in employment practices and for other purposes.[50]

Education and experience have developed a new group of Indian leaders with new methods, in the cities, in Government agencies having programs that serve Indians, and on the reservations. These relatively young, frequently college educated people

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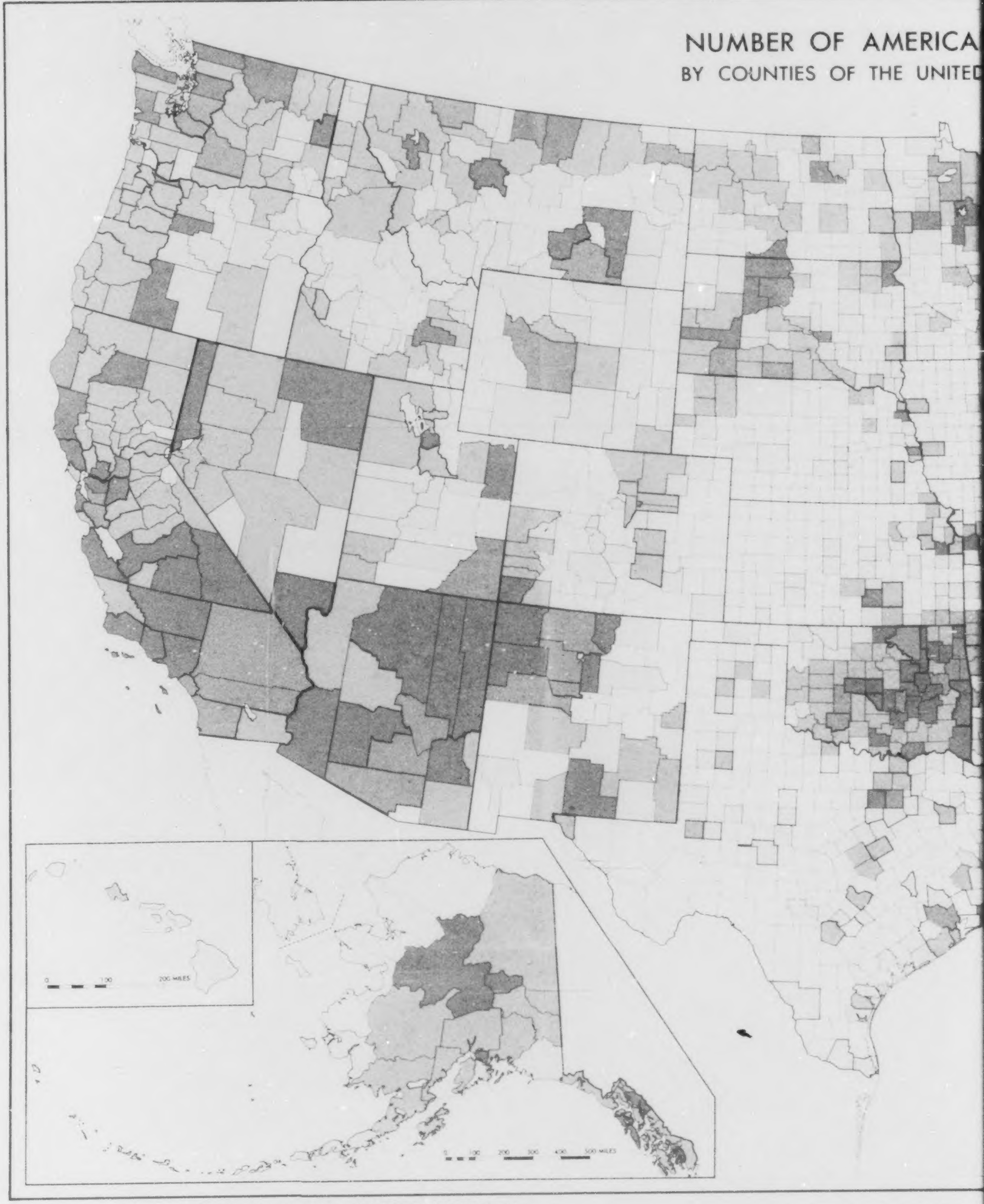
[48] Report of December 31, 1968 titled "A Study of Urban Indian Problems" to Commissioner Bennett by an Ad Hoc Committee chaired by Dr. Theodore W. Taylor.

[49] *Op. cit.*, pp. 5–7, 11–13, and passim.

[50] See numerous articles in the *New York Times*, and in California and other western newspapers.

UNITED STATES
DEPARTMENT OF COMMERCE

NUMBER OF AMERICA
BY COUNTIES OF THE UNITED



Prepared by Geography Division in cooperation with Population Division, Bureau of the Census, Social and Economic Statistics Administration, U.S. Department of Commerce

Definitions of SMSA's from Office of Management and Budget, Executive Office of the President, February 1971

Population data from the 1970 Census of Population

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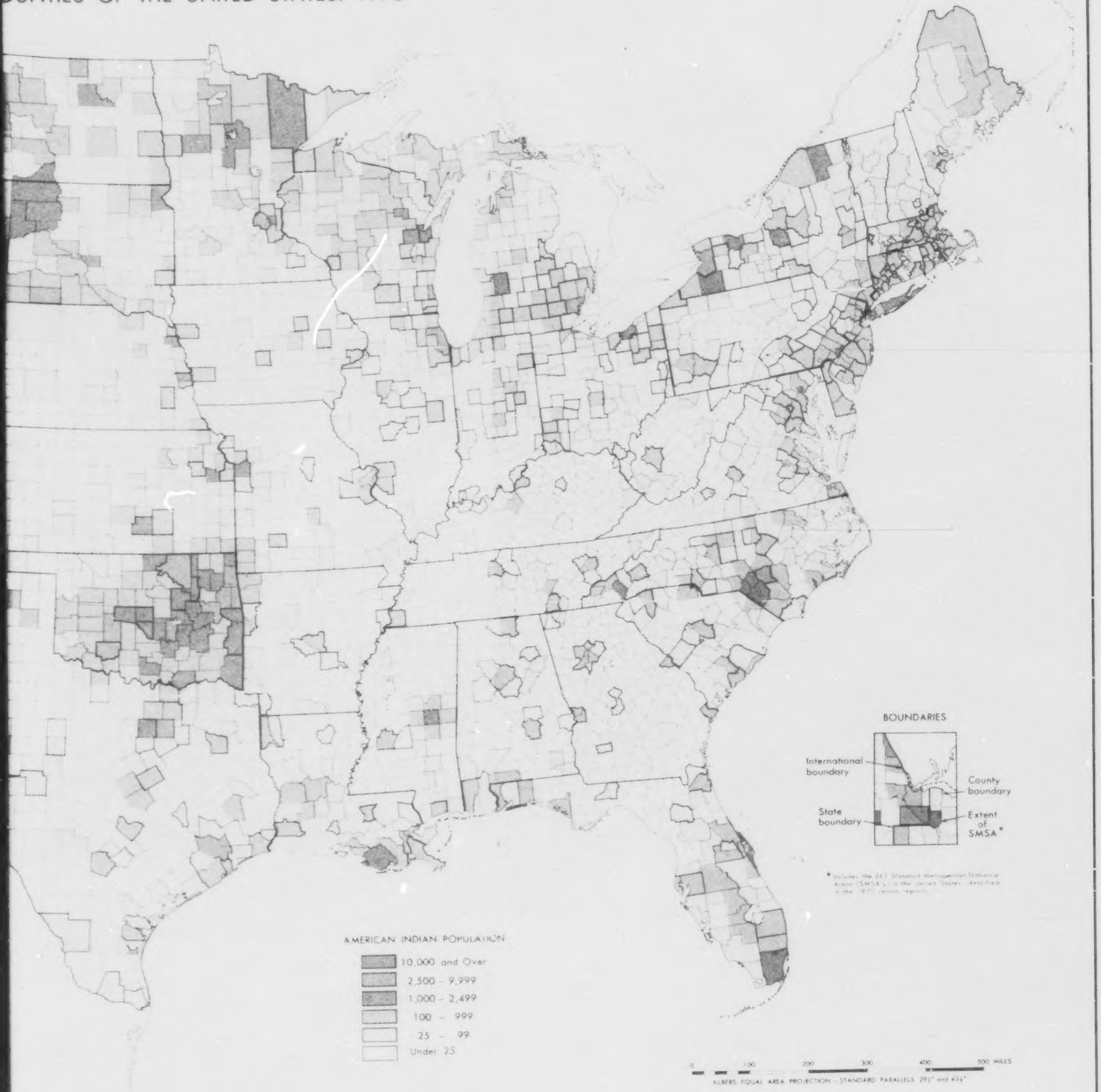
SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION
BUREAU OF THE CENSUS

MBER OF AMERICAN INDIANS
OUNTIES OF THE UNITED STATES: 1970


AMERICAN INDIAN POPULATION
10,000 and Over
2,500 - 9,999
1,000 - 2,499
100 - 999
25 - 99
Under 25
BOUNDARIES
International boundary
County boundary
State boundary
Extent of SMSA*
0
100
200
300
400
500 MILES

ALBERS EQUAL AREA PROJECTION – STANDARD PARALLELS 29½° and 45½°

* Includes the 243 Standard Metropolitan Statistical Areas (SMSA's) in the United States identified in the 1970 census reports.

☆ U.S. GOVERNMENT PRINTING OFFICE : 1973 O—492-492

expect to be heard and are not about to be pushed aside with a shrug.

At the first meeting of the National Council on Indian Opportunity in 1968 a sub-committee was assigned to make a study of conditions prevalent among urban Indians. Hearings were held by this sub-committee in 1968–69,[51] and a report and recommendations were made to the Government through the Vice President as chairman of NCIO January 26, 1970.[52]

In these recommendations it was pointed out that Indians who testified at the hearings believe and "Indian Council members [of NCIO] have concluded that viable economic development on or near present Indian communities is a goal much preferable to the artificial movement of individuals or families." [53] The following specific actions were recommended:

1. The Departments of Commerce, HEW, HUD, and OEO must educate themselves to the location of urban Indian concentrations with the purpose of bringing their present services directly and effectively into these areas. In addition they must develop new programs and initiatives to answer the special needs of Indians in an urban environment.
2. Reinforcement of existing urban Indian centers and active support for the development of new centers located in neighborhood Indian areas which would serve the two-fold purpose of community centers and programmatic referral agencies.
3. Establishment of legal aid offices in Indian ghetto areas.[54]

In their role as a coordinating agency the National Council on Indian Opportunity has encouraged OEO, Labor, HUD, and HEW in the joint funding of urban Indian conferences and model urban centers for Indians in Fairbanks, Gallup, Los Angeles, and Minneapolis. These four demonstration centers expect to receive funding for a three year period to show what such urban centers can do to develop needed services for individual Indians that now live in those cities.[55] A recent report recommended that these and other centers that have been supported by OEO be continued, and that the joint funding approach be further expanded to include other Federal agencies.[56]

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[51] National Council on Indian Opportunity, *Public Forum Before the Committee on Urban Indians.* Five vols. of hearings beginning December 16, 1968 and ending April 18, 1969, and held at Los Angeles, Dallas, Minneapolis-St. Paul, San Francisco, and Phoenix. LaDonna Harris, Indian member of NCIO, was committee chairman.

[52] National Council on Indian Opportunity Report of January 26, 1970.

[53] The Redirection of Employment Assistance, the Indian Action Team Concept, and the Reservation Acceleration Programs will help fulfill this goal. Discussed further in next chapter.

[54] Report on Urban Indians by LaDonna Harris, with recommendations; part of National Council on Indian Opportunity Report of January 26, 1970.

In March 1971 as a further experiment in the development of urban Indian leadership, the BIA awarded a contract to the Urban Indian Development Association (UIDA) in Los Angeles, to provide orientation, housing and other relocation assistance for reservation Indians moving to the Los Angeles area. UIDA was incorporated in 1970 to provide business assistance for American Indians.[57]

These actions represent specific implementations of the policy of the present administration as expressed in the President's Special Message of July 8, 1970 to allow Indians the right to contract to provide services and to carry out programs for Indians.

Away from their reservations in urban areas, Indians continue to find ways to meet their needs through their own initiative. Since the mass delivery of health services to people residing in the great metropolitan areas tends to be strange to Indians, recently two Indian clinics have been opened in the greater Los Angeles area. These are managed by Indians who secure the donated professional services necessary to provide medical, dental, and some social services to Indian clients. During the summer of 1972 such a clinic was also opened in San Francisco to meet the needs of Indian clients in the Bay Area.

Urban Indians work with school districts in areas where their people are numerous enough to encourage the hiring of qualified Indian teachers, the provision of special cultural and language materials, and of tutorial services where this has been desirable. State Fair Employment Practice Commissions have been approached to encourage an increase in the number of Indians employed by State and local government agencies.

The needs of Indians as an urban minority are not necessarily different in kind from those of Indians on the reservations: programs to improve health, housing, social services, justice, educational opportunity, employment, and possibilities for more meaningful use of spare time in recreational and cultural pursuits, but the agencies available in the urban setting to help meet those needs are different. Hopefully, as Native Americans working with these agencies find ways to solve their problems, the experience gained will be useful to other less privileged groups that live in the cities.

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[55] Office of Economic Opportunity, Indian Division report titled *Self Determination: A Program of Accomplishments*. Prepared and published by the Arizona Affiliated Tribes, Inc., May 1970, pp. 15–17.

[56] Urban Programs, a report prepared by the Indian Division, OEO, May 19, 1972.

[57] See various brochures and reports from Urban Indian Development Association, 1971–72, also their *American Indian Business Directory*.

INDIAN ELIGIBILITY FOR FEDERAL SERVICES

The language of the Snyder Act of November 2, 1921 (42 Stat. 208) allows the expenditure of appropriated funds for Indians without regard to degree of Indian blood, to membership in a federally recognized tribe, or to residence, as long as it is in the United States. The legislative history suggests, however, that precedents set by legislative action and by earlier practices should generally be used as guidelines. President Nixon made it clear in his message that non-Federally recognized Indians were not a part of the Bureau of Indian Affairs' responsibility.

Based on the language of this Act the 9th U. S. Circuit Court of Appeals has ruled (1972) that the BIA has wrongfully denied assistance to Indians because they did not reside on reservations, and that in doing so it acted "in excess of its authority and in contravention of congressional intent." [58] This case is presently being appealed.

A BIA committee recently recommended that the criteria for Bureau service to non-reservation Indians be liberalized, and Commissioner Bruce stated June 16, 1972, that there are "many people both in the Bureau and outside who believe that the Federal trust responsibility extends to tribal Indians wherever they are." [59]

On June 24, 1971 the House Committee on Appropriations reported: "The Committee believes that the Bureau of Indian Affairs should reassess its relationship to off-reservation Indians who now constitute 40 percent of the country's Indian population.

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[58] Ruiz vs. Morton, U. S. Court of Appeals, 9th Circuit, No. 25568.

[59] Commissioner Bruce statement of June 16, 1972, cited above. For another view see Taylor, *The States and Their Indian Citizens*, pp. 78 and 137.

Commissioner Robert L. Bennett, first American Indian to be Commissioner of Indian Affairs since Eli Parker, who served in 1869 under General Ulysses S. Grant, greets Miss Indian America, Waleah Lujan, right, as Linda Bernal, left, looks on.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

Reception for Annie Wauneka, left, in the office of the Secretary of the Interior when she was presented with the Presidential Medal of Freedom, July 1963. Mrs. Wauneka is a long time member of the Navajo tribal council.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

Sarah Ann Johnson, Navajo, begins her 1967–68 reign as Miss Indian America XIV. Surrounding her are, from left to right: Rosa Minoka Hill, Oneida, fourth runner-up; Patricia Ann Little Wolf, Northern Cheyenne, third runner-up; Bernita Puhufyestewa, Hopi, second runner-up; and Sharon Lee Hoptowit, Yakima-Walla Walla, first runner-up.
(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

American Indians have been spotlighted by the highest levels of Government in recent years. Here a group of Indians put on ritual dances at the personal invitation of the President of the United States in the White House.

Jimmy Killigivuk, 75-year-old Eskimo from Point Hope, stands inside the underground Ingalik Indian meeting house in the combined Eskimo-Indian village on the Alaska 67 Centennial Exposition site. The Exposition took place in 1967.

Father and daughter do some repair work on a bustle that is a part of the Plains Indian dance costume to be worn in an urban community, where the family now live. They join with other Indians interested in traditional Indian ways for pow wows at an Indian center.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

Young Indians meet with Commissioner of Indian Affairs during Poor Peoples' March on Washington, D. C., 1968.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

Indians who live in cities shop in the same stores as other citizens, buy similar clothing.
(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

While the Bureau's primary responsibility is to assist Indians living on reservations, the Bureau can and should do more to assist Indians to adjust to city living." [60]

June 8, 1972 the House Committee on Appropriations added a $275,000 item to the budget estimate for "Participation by the Bureau of Indian Affairs in providing referral services to urban Indians needing social assistance" and suggested that with these funds the BIA could "establish about five regional referral locations whose primary responsibility will be to assist urban Indians in making proper application for various social benefits available from Federal, State, and County governments." [61] This item was retained in the Senate version. Since the Department of Health, Education, and Welfare is already participating in urban pilot centers, this money may be used to reimburse that agency to avoid duplication of activity.

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[60] 92d Cong., 1st sess., H.R. 92-308, p. 9.

The definition of the term Indian in the Conference Report, Education Amendments of 1972, is also pertinent to the discussion of eligibility:

> For the purpose of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian." [62]

The present mobility of the Indian population, as individuals move from reservation to urban centers to find employment, to pursue an education, and for various other reasons, then return to the reservations, has raised questions about the differentiation between urban and reservation Indians.[63]

The Legislative, the Executive, and the Judicial Branches of the Government are presently reaching decisions that indicate a tendency toward the liberalization of programing that could result in a more inclusive definition of the term "Indian" that would be acceptable to Indians generally, and to the many agencies of the Government that are presently involved in a variety of ways with programs for Indians.

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[61] 92d Cong., 2d sess., H.R. 92-1119, pp. 7 and 11, and S.R. 92-921, p. 6. Also see speech on subject of Bureau services to urban Indians by Mrs. Hansen in *Congressional Record*, June 13, 1972, H. 5520-21.

[62] Education Amendments of 1972, Conference Report (to accompany S. 659), S.R. 92-798, pp. 116-117.

[63] For further discussion see Taylor, *The States and Their Indian Citizens*, pp. 134-139.

CHAPTER TEN

INDIAN POLICY GOALS FOR THE EARLY 1970's*

One of the reasons given for transferring the Bureau of Indian Affairs from the War Department to the Department of the Interior, when it was created in 1849, was to place the responsibility for the development of policies for the sale and use of Federal lands and other natural resources in one agency. As a result of this decision there has been a built-in possibility for conflict of interest within that Department, as the desires of one agency for the use of a piece of land or a particular resource are matched against those of another.

Committees of the Congress that are responsible for appropriations and legislation to determine the use of particular lands and resources are not immune to these inter-agency conflicts. Until the last quarter-century Indians were largely a non-voting element of the citizenry, and the non-Indian majority has traditionally been able to bring pressures to bear that have affected some decisions of the Legislative and Executive branches of our Federal System, but have not tended to affect the decisions of the Federal Courts.

Some scholars in the field of Indian policy have suggested that this conflict of interest is responsible for the failure of the Congress to act on much of the legislation President Nixon called for in his Special Message of July 8, 1970. Others have questioned the actual priority given this legislation by the Nixon Administration itself. Still others wonder whether these bills have any real priority even among the various segments of the Indian population in the United States.[1] The proposed legislative package is not likely to receive favorable action from the Congress unless it is demonstrated that the Administration and the Indians want it.

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* The period covered by this study ends June 30, 1972.

[1] For example see *Deseret News*, June 7, 1972, article citing Alvin M. Josephy, Jr.; *NCIO News*, January–May, 1972, Martin Seneca, Jr., "Federal-Indian Relations: A Historical Perspective," and Harold E. Fey, "America's Most Oppressed Minority," *Christian Century*, January 20, 1971.

Although the BIA has taken some actions to implement the philosophy of the President's Message, frequently these have stirred controversy within the Bureau, the Department of the Interior, the pertinent Congressional Committees, and within the Indian communities themselves. It presently appears, however, that there is a predominant element within the Bureau that is using the 1970 message with its call for "Self-Determination" for Indians as a banner to rally behind. Much of the administrative action of the BIA during the recent past has been related to support of the President's policy statements.[2]

Commissioner Bruce recently said, "Since I came to Washington in 1969, the face of Indian America has undergone some dramatic and far reaching changes. . . . The will for self-determination has become a vital component of the thinking of Indian leadership and the grassroots Indian on every reservation and in every city. It is an irreversible trend, a tide in the destiny of American Indians that will eventually compel all of America . . . to recognize the dignity and human rights of Indian people." [3]

Early in 1970 Commissioner Bruce distributed to the BIA's central office staff "a statement of the policies which will henceforth guide the Bureau in its administration of Indian affairs":

1. to transform the Bureau from a management to a service organization,
2. to reaffirm the trust status of Indian land,
3. to change the role of the Area Offices including greater emphasis on technical services,
4. to give tribes the option to take over any or all BIA program functions with the right of retrocession, and
5. to continue present Bureau policies relating to urban Indians with the additional emphasis of a strong Indian advocacy role stressed at all stages of BIA operations.[4]

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[2] For a comparison of the Johnson and Nixon messages see Taylor, *The States and Their Indian Citizens*, pp. 72 and 197ff.

[3] Department of the Interior News Release June 17, 1972, Statement by Commissioner of Indian Affairs Louis R. Bruce before the National Archives Conference on Research in the History of Indian-White Relations, Washington, D. C., June 16, 1972.

[4] Commissioner's Comments, *Indian Record*, June 1970.

In an announcement by Commissioner Bruce November 24, 1970, followed the next day by a news release from Secretary of the Interior Walter J. Hickel, with still further explanations in December and January, the Commissioner's Indian team effected "a fundamental change in philosophy" that proposed to show Indian tribes and communities that they had the right to participate in the planning and operation of activities that affected their lives from day to day.[5] The "father [meaning the BIA] knows best" attitude was to be "wiped off the slate," and an "Indianization" of Indian affairs was to occur that would give Indian people "the responsibility for their own lives."[6] This policy emphasis was consistent with the philosophy of the 1934 period, and the movement beginning in the 1960's, and hopefully would eventually result in Indian participation in the reassignment and selection of BIA employees, inspection and evaluation of program planning and accomplishment, the gradual redelegation of Area Office authority to local agencies and Indian communities, and the contracting of services and functions formerly provided through the BIA to Indian groups themselves. The Indian Intercourse Act of June 30, 1834, which allowed the direction of certain functions to be "given to the proper authority of the tribe,"[7] and the Buy Indian Act of 1910 were held to give the BIA the right to authorize the "takeover" and contracting procedures.[8]

Early in the new year there was an announcement from the Department of the Interior that "tribal solutions to tribal problems will be the goal of the Bureau of Indian Affairs in 1972."[9] In President Nixon's State of the Union Message to the 92nd Congress, January 20, 1972, the philosophy of "Self-Determination for Indians" was again pronounced, and emphasis was given to the fact that "a newly reorganized Bureau of Indian Affairs, with almost all-Indian leadership, will from now on be concentrating its resources on a program of reservation economies, creating local Indian Action Teams for manpower training, and increased contracting of education and other functions to Indian communities."[10]

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[5] Department of the Interior News Release, November 25, 1970, and *Indian Record*, December 1970–January 1971.

[6] Richard Halloran, "Reform in Indian Bureau," *The New York Times*, December 3, 1970.

[7] "Old Law Makes New Policy for BIA," *Indian Record*, June 1970.

[8] Commissioner Bruce statement of June 16, 1972, cited above.

[9] Department of the Interior release, January 12, 1972.

A five-point program presented by Commissioner Bruce and Assistant Secretary of Interior Harrison Loesch called for:

1. Reservation by reservation development;
2. Re-direction of the Bureau of Indian Affairs Employment Assistance Program;
3. Resources protection—receiving the highest priority will be water rights and the preservation of Pyramid Lake for the Paiute Indians;
4. Increasing the number, improving the quality of, and involving Indians in the development of roads on Indian reservations;
5. Increasing tribal control over Indian education.[11]

Changes in the interpretation and application of Indian Preference Policy had been recommended by Commissioner Bruce September 23, and concurred in by Assistant Secretary Loesch September 27, 1971, but they failed to secure Departmental approval until June 22, 1972. By adding this and the Reservation Acceleration Program to the points mentioned by President Nixon, and the five-point program itemized above, we have the objectives agreed upon by the Department and the Bureau as policy guidelines, and the administrative goals for 1972. Thus the President's Message was to be implemented.

FEDERAL COMMITMENT TO INDIAN COMMUNITIES

It has been suggested that "the white man's failure to establish a close relationship with the native civilization is reflected in his tragic disregard for the integrity and beauty of the land he has conquered." The Indian way is to be "thankful that we're on this Mother Earth. That's the first thing when we wake up in the morning, is to be thankful to the Great Spirit for the Mother Earth: how we live, what it produces, what keeps everything alive."[12]

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[10] BIA Office of Communications memorandum to Central Office Staff, January 22, 1972. See discussion of self-determination in Taylor, *The States and Their Indian Citizens*, p. 160ff.

[11] Department of the Interior News Release, January 22, 1972.

[12] Sylvester M. Morey, editor, *Can the Red Man Help the White Man? A Denver Conference with Indian Elders* (New York: Gilbert Church, 1970), pp. 18, 47–48.

A warrior song of the Omaha shows the individual to be mortal, but the earth immortal:

> I shall vanish and be no more,
> But the land over which I now roam
> Shall remain
> And change not.[13]

To repeat part of a quotation from Theodore Stern:

> For many Indian people reservations are a highly significant reality, constituting the only familiar homeland, the major continuity with the past, the sole real property, and the principal token of the government's resolution to honor pledges made long ago.[14]

Perhaps we begin to catch the Spirit Native Americans feel for their homeland through our reflections on the thoughts voiced by the astronauts as they view the earth from the depths of space. As expressed by Archibald MacLeish: "To see the earth as it truly is, small and blue and beautiful in that eternal silence where it floats, is to see ourselves as riders on the earth together, brothers on that bright loveliness in the eternal cold--brothers who know now they are truly brothers." [15]

The President and his administration have shown their respect for the sentiment that Native Americans have for their homelands and their traditions by their pledge to acknowledge the special relationship that exists between them and the Federal Government, by their repudiation of the termination policy, by their request to the Congress for landmark legislation to return to the Indians of Taos Pueblo the Sacred Blue Lake and the watershed area surrounding it (achieved in December 1970), and by the Executive Order that restored 21,000 acres of land, withheld in error, to the Yakima Tribe.

The present policy of the Executive Branch of the Government is to support Indian tribes in the maintenance of their communally or corporately owned lands that comprise their reservations for an indefinite period of time. The significance of the Taos Blue Lake and the Yakima lands actions is that the Government chose to return to Indian tribes blocks of land taken and being used for other purposes. The practice has been to make cash settlements in compensation for land taken.

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[13] Margot Astrov, editor, *American Indian Prose and Poetry, An Anthology* (New York: Capricorn Books, 1962), p. 133.

[14] Stern, *Op. cit.*, p. 266.

[15] *New York Times*, December 25, 1968.

Because Indian reservations can be as different as the one held by the Havasupai (in the canyon bearing that name, part of the larger Grand Canyon area) and the 25,000 square mile spread that comprises the Navajo Reservation, it has always been difficult for the Government to pass laws or provide programs that are equally applicable to all tribal situations. That is why authority has been delegated to superintendents at the Indian agencies. As a next step, tribal governments were given the option to assume the management, in whole or in part, of programs under contract with the Bureau of Indian Affairs. Thus they would operate local services for the particular needs of their community. The roles of the Bureau of Indian Affairs and the Division of Indian Health of HEW would be to provide service and support, along with monitoring of contracts.

Examples of how such a policy is to be applied can be observed in cases such as the Zuni Pueblo Indians of New Mexico,[16] which began its "home rule" experiment in 1970, and the Miccosukee Indians of Florida, who assumed control over their own affairs in 1971.[17] As a matter of fact, however, many tribal councils or business committees have been moving toward a more independent management of tribal resources and administration of tribal governments for some time. Recently the BIA and the Navajo Tribe have begun discussions that could lead toward a so-called tribal "takeover."

Administrators of the BIA are expected to work directly with Indian groups in a supportive capacity to assist with the implementation of modern managerial and governmental systems. In this process the pertinent resources of all agencies of the Government can be called upon as necessary to assist with the development of programs to meet the needs of a particular reservation as outlined by its tribal leaders.

The Economic Development Administration of the Department of Commerce had implemented a "Selected Indian Reservation Program" that was to give a "special impact" to the development of Indian communities in 1970.[18] This was continued in 1971, and included some 35 tribes by the end of the year.[19]

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[16] Department of the Interior News Release, August 9, 1970; *Albuquerque Tribune*, May 23, 1970; and *Albuquerque Journal*, May 24, 1970.

[17] Agreement reached in May 1971, reported in *New York Times*, June 13, 1971.

To assist with the development of Indian communities on the reservations, the relocation strategies of the 1950's have been reversed, in line with requests from Indian leaders for more than a decade, and now "employment assistance resources are being directed into the reservation economies instead of dissipating in the non-Indian communities. Indian men and women are being trained for work, not in the cities, but in their own home areas." [20] A trend in this direction had been developing for sometime.

To improve the "Isolation Factor" mentioned in a previous chapter that confronts most Indian communities, the requested budget for roads needs to be increased to about $106 million a year, and continued at this increased figure over a 7-year period until more than $800 million has been supplied to bring paved "Indian roads" to a total of some 21,665 miles to improve vehicle communication within Indian reservations.[21]

The goals set in the policy statement on transportation facilities early in 1972 would require road construction to "build an adequate road system on Indian reservations which will move the people, goods, and services necessary for optimum economic, social, and educational development," and "to maintain Indian reservation roads to a dependable, useable, and all-weather condition." It is anticipated that "tribes who select themselves to embark toward a goal of self-government, . . . may contract to take over the entire road maintenance responsibilities for their reservation." [22]

In regard to the viability of Indian communities, Commissioner Bruce has frequently emphasized his repudiation of the idea of tribal termination and his advocacy of self-determination. In relation to the Menominee Restoration Act now before the Congress the Commissioner has said: "A lengthy Bureau economic evaluation actually documents the catastrophic effects which termination has had on this group. We are working to have the full range of

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[18] Also see Department of the Interior news release, March 19, 1972; and Commissioner Bruce statement of June 16, 1972, cited above.

[19] Also see Policy Statement, Reservation Acceleration Program, early 1972.

[20] Commissioner Bruce statement of June 16, 1972, cited above.

[21] *Ibid.* Early in 1973 there seemed to be serious question whether funding at this level could be made available, at this time.

[22] BIA Transportation Policy Statement, early 1972.

Bureau services once again made available to the Menominees. In addition, the trust status of Menominee County should be reinstated so that the dissipation of their land ceases." [23]

As the numerical proportion and voiced opinion of urban Indian groups has gained larger national consideration in discussions of relationships between the Native Americans and the United States, and as Indian organizations such as the National Congress of American Indians have come gradually to a recognition of the fact that Indians not connected with Federal reservations are a force to be reckoned with, elected tribal leaders have expressed a growing concern that consideration be given to the question of who, or what group, if any, speaks for or represents the Indians of the United States.

The suggestion of Commissioner Bruce that the BIA should "become an advocate of urban Indian interests" [24] has also raised a fear in some tribal leaders that funds appropriated by the Congress for the support of reservation programs might somehow be turned to the promotion of projects to assist urban Indian organizations.[25]

Another fear expressed by tribal leaders is that, through the use of "block grants" from the Federal Government to the States or in some other way, State governments would somehow intervene in the direct relationships that have appropriately existed between Federal agencies and the tribes as "subordinate and dependent nations" with "a status higher than that of states." [26]

Representative of this fear, certain Indians made it clear at the Federal-State Indian Affairs Conference held at Lake Tahoe, Nev., August 1969, under the sponsorship of the National Council on Indian Opportunity that they did not favor any action that would result in funds to support programs for Indians being "coordinated" by State governments,[27] and at the NCIO-sponsored Regional Hearings on the President's Indian Message held at Las Vegas, Nev., November 16–17, 1970, the Ute Indian Tribe introduced a series of resolutions that stressed their appreciation for

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[23] Commissioner Bruce Statement of June 16, 1972, cited above.

[24] "Bureau of Indian Affairs—5 Point Policy" Statement, November, 1970; and the statement of December 13, 1970.

[25] Peter MacDonald's statement, *Deseret News*, May 24, 1971.

[26] Fed. 2d. 131 (1959).

[27] National Council on Indian Opportunity, *Federal-State Indian Affairs Conference*, Washington: Office of the Vice President, 1969. See statement of John Rainer, pp. 72–76, and others.

"the excellent working relationship the Ute Tribe has with the several Federal Agencies, and the direct, immediate help given by the OEO and HEW Indian Desk (s)," and expressed support for "the Indian Desk concept" which tends to provide "a direct pipeline to aid without the confusion of running the gamut of so many committees, councils, and priorities set up by state agencies."[28]

Tribal chairmen in a series of meetings held during 1970–71 have moved toward a special recognition for the elected leaders of Indian reservation communities. In April 1971 at Pierre, S. D., a National Indian Tribal Chairman's Association was created.[29] Three weeks later a 15-member "watchdog committee" of these tribal chairmen met with BIA and Interior officials to express their desire for a "more active advocacy for tribes whose water rights, schools or lands are threatened," and to ask that the BIA "work on our behalf more vigorously."[30]

Indian community leaders want changes that may occur in organizational arrangements to improve upon present relations between the Government and Indian tribes, and to provide a greater advocacy of the cause of the reservation communities. The National Conference on Indian Self-Determination held at Kansas City, Mo., March 8–12, 1971 favored the establishment of a cabinet level Department of Native Affairs instead of the Assistant Secretary for Indian and Territorial Affairs within the Department of the Interior as requested by the President in his Special Message of July 8, 1970.[31] The All-Indian Pueblo Council, however, has come out strongly against any action that would move the BIA from its present location in the Department of the Interior.[32]

NEW APPROACHES TO ECONOMIC DEVELOPMENT

Indian tribal leaders have long felt that it is better to have lands and resources than cash settlements for them, and claims awarded to particular tribes have tended to amount to only a few thousand dollars each in cash, if made available to each tribal member in per capita payments. This is one of the reasons so much importance is placed on the decisions to return the sacred Blue Lake area to the Indians of Taos Pueblo, and to restore the 21,000 acres to the Yakima Tribe. Indians hope, and some members of the Congress fear, that these actions will set a precedent, and that a policy could develop for returning other lands held in National Parks, Forests, etc., to appropriate Indian tribes.

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[28] Transcript of Hearings on President's Indian Message, vol. 4, pp. 20–21.

[29] *Denver Post*, May 17, 1970; and *NCIO News*, March–April 1971.

[30] *Deseret News*, May 24, 1971.

[31] *NCIO News*, March–April 1971.

[32] *Salt Lake Tribune*, October 7, 1971.

Although considerable emphasis has been given to programs of the BIA and other Federal agencies to work with Indian leaders to create employment opportunities and to attract industry to reservations, unemployment among Indians in and near these reservation communities is still several times the national rate, per capita cash income is a fraction of the national average, and as is the case in underdeveloped areas elsewhere in the world, the population growth rate—four times the national average—is also a significant factor in this rather gloomy economic picture.

In the face of what seems an impossible situation Indian groups continue to employ a variety of means to further develop tribal resources, and to use the income from these resources to develop new installations and programs to attract tourists, new industries, to protect water rights, and improve the value of lands, forests, and range resources. Claims money has been used to good advantage as one source of capital.

In recognition of the fact that their greatest resource is their tribal members, Indian leaders have laid great stress on programs that improve housing, health conditions, counseling for alcoholism, and opportunities for better education for adults as well as Indian youth. Recently, in addition to the existing family training centers, and following the stated policy that Indian programs should be developed and designed *by* Indians as well as *for* Indians, the United Tribes of North Dakota Development Corporation, an all-Indian organization, set a precedent by contracting to furnish whole family training for 36 reservations in eight States: North Dakota, South Dakota, Minnesota, Montana, Nebraska, Wyoming, Iowa, and Wisconsin. Beginning with an enrollment of 35 adults and 47 children, it has been moving toward an anticipated 150 trainees.[33]

During the last few years the Bureau of Indian Affairs has placed increasing emphasis on the "Buy Indian Act" through which Indian groups and Indian business concerns can contract to provide services previously supplied by the Federal Government.

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[33] Manuscript report of the Bureau of Indian Affairs for 1969.

Since Indian leaders realize that they need additional training in management skills, a variety of programs have been developed by tribal councils working with universities and private institutions, and funded by various agencies to develop better methods for evaluating investment opportunities, analyzing program possibilities, and developing management systems. Special Indian leadership training and human resource development programs have also been funded by Government agencies and private foundations.

A growing percentage of the funds budgeted for reservation communities by Federal agencies are being controlled and handled under the direction of the tribal council rather than by the particular Federal agency. This makes it really matter who is elected to tribal offices. As leadership counts for more, voters pay more attention to the qualifications of those elected, and being elected becomes worthy of a greater effort on the part of candidates.

An area of recent controversy among Indian leaders and environmentalists relates to the position a tribe should take about bringing industry to the reservation, and the use to be made of tribal resources to provide raw materials for industrial development that may result in pollution. It has been said that "a reverence for nature is inherent in the culture of the American Indian," and it has, therefore been suggested that Indians would not of their own choice do anything to despoil the ecological balance of an area.

Internationally the leaders of the world's less developed areas have tended to say "our needs are great, bring on the industry and we'll take our chances with pollution." Indian communities generally need the jobs and other income that grows out of economic and industrial development. The pressures on a leader to favor such programs without regard to environmental problems are great indeed. It is hoped that careful planning by Indian leaders will allow those kinds of development to occur that will keep reservations and adjacent areas free from pollution.[34]

Billions upon billions of dollars have been spent in the United States since the New Deal era on projects to assist those in the general population of the country who are disadvantaged in one way or another. There has been considerable frustration on the part of those involved with the management of such programs, for more than twice as many persons are benefitting from welfare programs today than there were 20 years ago, and dollar costs are about three times as great.[35] Indian leaders have a unique opportunity to demonstrate that funds invested in their communities can bring lasting economic benefits.

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[34] The whole question of the impact of environmental requirements as they relate to the economic development of Indian reservations calls for careful study on the part of Indian leaders and pertinent Government employees.

The need for a special advocate agency to protect Indian resources from outside interests as well as inter-Governmental conflicts of interest has been recognized for some time. President Nixon gave special emphasis to it in his July 1970 Special Message, and asked for legislation to remedy the problem, but the wheels grind slowly, and, as yet, Indians have not given enthusiastic support to this legislation.

The early 1972 policy statements gave the protection of resources, and particularly Indian water rights, a high priority. An Indian Water Rights Office was established in BIA with the administrative direction to "report through the Commissioner of Indian Affairs directly to the Secretary of the Interior" in order to avoid "to the extent possible the conflicting interests of other Interior Department agencies." [36]

One requirement was to be an inventory that would assess the extent of the water rights held by Indians as a property right reserved under the Winters doctrine "which the United States as trustee is obligated to protect." The Water Rights Office is expected to confirm "by administrative action or litigation, the water rights of Indians," and "direct the efforts of other Interior Department agencies in the performance of studies required in establishing Indian water rights." [37]

As Commissioner Bruce has said, "there is an increasing demand for water to support the economic growth of the American West. However, there is a limited supply. As a result, Indian people's reserved right to water is not very popular with other interests." [38] Nineteen seventy-one was a year of controversy in regard to the protection of Indian water rights that resulted in reverberations within the Interior Department, among the Indian people, among these "other interests" that the Commissioner mentioned, and in the press across the nation. The Indian Water Rights Office will undoubtedly be a center of controversy.

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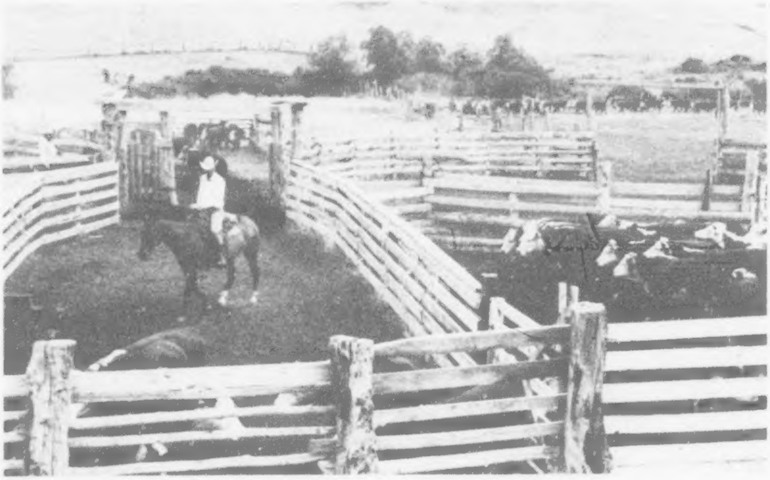
[35] *U. S. News and World Report*, July 12, 1971, pp. 52–57.

[36] Policy Statement on Water Rights, early 1972.

[37] *Ibid*.

[38] Commissioner Bruce statement of June 16, 1972, cited above.



Charles Cunning and Tom Small with herd of cattle at Morningstar Ranch, an enterprise of the Northern Cheyenne Reservation, Mont.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

Seminole Indian woman works on a colorful Seminole traditional dress on a sewing machine in the Florida Everglades.

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

Navajo worker at the General Dynamics plant, Fort Defiance, Ariz., uses the industrial equivalent of a lady's hair dryer to tighten the plastic coating on an electronic "cable harness."

(Photo: Bureau of Indian Affairs, U.S. Department of the Interior.)

An Indian family shop at a tribal enterprise supermarket, the Sioux Super Valu, on the Cheyenne River Reservation, S. Dak.

(Photo: Martha McM. Roberts for the Bureau of Indian Affairs, U.S. Department of the Interior.)

Fort Apache Lumber Company is owned and operated by the White Mountain Apache Indian Tribe on its Fort Apache Reservation. The mill is located approximately 1½ miles south of the town of Whiteriver, Ariz.

(Photo: Dale I. Slocum.)

An Indian boy, member of the Quileute Tribe of Washington State, plays in his father's dugout fishing boat. Tribal docks are in the background.

(Photo: Martha McM. Roberts for the Bureau of Indian Affairs.)

In the ruggedness of Monument Valley, Ariz., a Navajo Indian weaver creates a colorful blanket on a homemade loom.

(Photo: Santa Fe Railway.)

Beneficial use is one of the best assurances for the protection of Indian water rights, and engineers, soil and moisture technicians, and range conservationists within the Bureau's Division of Land Operations continue to work to achieve greater use by Indians of their reservation resources.

RE-DIRECTION OF EMPLOYMENT PROGRAMS

After listing the disadvantages that accrued to Indians because of their isolation, the lack of reservation resources and possibilities for employment, and the failure to give young Indians the kind of training necessary to enable them to compete in the off-reservation or urban job market, President Nixon called for several improvements in his July 1970 Message that included better educational programs, but also the development of processes within the BIA and other Federal agencies that would "allow Indians a greater voice in the design and operation of programs to overcome their economic and other handicaps." [39]

Early in 1971 a National Task Force composed of Indians, selected to represent different areas of the country, that had a record of involvement with programs for human resource development was appointed, and soon found agreement in the proposition that "Indian solutions to Indian problems—Indian answers to Indian needs—will give our people the opportunity to combine the best of two cultures while retaining and developing our tribal heritage and identity." [40]

The recommendations of this group, which referred to the special problems of Indians living off the reservations as well as those pertinent to reservation employment possibilities, became the topic for discussions during the National Indian Manpower Conference in Tulsa, Okla., in December 1971. The conference was attended by 77 tribal leaders along with representatives of Indian organizations and of Federal and State governments.

Throughout the decade from 1961 to 1971 Indians had repeated the desire to have the BIA and other Federal agencies assist with the development of programs that would enlarge the possibilities for Indian employment on or near the reservations rather than in distant urban centers that continued to be strange to Indian relocatees. Given this preference the BIA Commercial and Industrial Development Program has worked with Indians, other Federal agencies, and private industry to attract commercial and industrial enterprises to locations on or near reservations where a labor supply is available. "In 1964 only 50 such enterprises were located near Indian lands; today a total of 244 plants have been established." [41]

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[39] *Manpower Report of the President*, March 1972, p. 69.

[40] *Ibid.*

Indian employees for such enterprises are reported to have "increased from 1,459 in mid-1964 to 7,611 in mid-1971--51 percent of the total 15,061 employment." As a manifestation of satisfaction on the part of manufacturers "Fairchild Semiconductor Division at Shiprock, N. M., employs 791 Indians out of a total employment force of 822, and anticipates an additional 200 Indian employees for next year." [42]

A major consideration of many of the "New Direction" programs referred to by President Nixon in his *Annual Message to the Congress January 20, 1972*, and more specifically outlined in a series of BIA policy statements early in 1972, is the placement of administering of many programs in the hands of Indian leadership where this is possible, with guidance and technical assistance available as near the reservation in the BIA structure as particular programs will allow. Closely related in this consideration is the awareness that the more program action is centered on the reservation, or in the particular Indian community, the more the dollars spent to support the programs will tend to remain on the reservation.

The concept behind such programs as: the use of Indian labor and contracting authority in the building and maintenance of reservation roads, the direct operation under contracts of federally funded schools and the new interpretation of Indian preference, envisions a combined impact through new employment, economic development, and new management responsibilities for Indian leadership that will not only bring new funds to the Indian community, but will also see Indian merchants in Indian stores, and other enterprises that keep money changing hands on the reservation.

The Redirection of Employment Assistance Program strategy has called for a reversal of the old relocation policy and now under the new policy "employment assistance resources are being directed into the reservation economies instead of dissipating in the non-Indian communities. Indian men and women are being trained for work, not in the cities, but in their own home areas" according to Commissioner Bruce.[43]

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[41] Ms. copy of proposed Annual Report for 1971.

[42] Commissioner Bruce statement of June 16, 1972, cited above.

Some Indians will continue to want to leave the reservations, at least temporarily, to participate in training and employment programs, and this will continue to be possible. Field Employment Assistance Offices and Residential Training Centers, however, are to normally operate under the direction of selected Area Offices, and the funds to support a particular Indian client during the duration of the training or other employment assistance program devised to fit his needs will be made available to the Field Employment Assistance Office by authorities at the home reservation, after the program of a particular Indian client has secured their approval.

Administrators of Field Employment Assistance Offices contacted in the summer of 1972 agree, in general, with the "Redirection" philosophy, and feel that the program is working under the new policy guidelines.

One would anticipate an eventual decline in activity at these urban offices, but little change was apparent by mid-1972. One small office that works largely with Navajo clients has reported an increase in requests for service, but a lack of necessary personnel to meet the demand.

To back up programs for Indians originating in the BIA and other Federal agencies, the Department of Labor through its manpower training programs has helped to encourage industrial development on reservations. Indian leaders have also been served by the effort to recruit additional Indians as professional staff members to direct projects serving Indian communities. The Department of Labor claimed "nearly a fivefold increase" in Indian staff members during the year ending December 1971.[44]

It is anticipated that the Employment Assistance Program will interact with such agencies as Health, Education, and Welfare; Indian Health Service; Office of Minority Business Enterprises; Economic Development Administration; Office of Economic Opportunity and divisions other than Employment Assistance in the

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[43] Commissioner Bruce statement of June 16, 1972, cited above.

[44] *Manpower Report of the President*, March 1972, p. 69.

BIA and the Department of the Interior in ways that will serve the Indian communities. This should lead to "developing manpower on reservations and expanding the Employment Assistance resources on the reservation thereby adding fuel to the reservation economy. . . . Indian participation in planning and programming will be a must . . ." BIA personnel are to give "complete option to [an] Indian person to select his own life style, training, and work objective and location." [45]

NEW DIRECTIONS FOR THE NATIVE ALASKANS

"There is no state in the nation where the social and economic gap between the races is greater than that between the white man and the native in Alaska" according to Robert Zelnick, newspaper writer and formerly a reporter for the *Anchorage Daily News*. He continues: "The white man enjoys a higher median income than does the resident of any other state. . . . The Native's annual per capita income is $1,000, his life expectancy 35 years, his unemployment rate almost 80 percent, his suicide rate three times that of the white community." [46] In assessing this statement one must take into consideration native Alaskans' subsistence economy as compared to that of the average American.

The Eskimos comprise about half the total Native population and live mostly along the Arctic Ocean and Bering Sea coasts. The few thousand remaining Aleuts live in the Aleutian Islands and the Alaska Peninsula. The major Indian tribes are the Athabascans, Haidas, and Tlingits who occupy the interior of the State as well as the coastal regions of the Gulf of Alaska and the North Pacific. Grouped together these Aleuts, Eskimos, and Indians are referred to as Native Alaskans or just as the Natives. They comprise more than 20 percent of the total population of Alaska which gained statehood in 1959.

Although the Statehood Act required the State to protect the rights of the Native people, it created a potential conflict by also allowing the new State to select 103 million acres from the 375 million acre land mass of Alaska. While the Natives used and believed they had a right to much of the State, they actually held fee title to only a few hundred acres.[47]

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[45] Policy Statement on Redirection of Employment Assistance Program, early 1972.

[46] Robert Zelnick, "Alaska: The Oil Rush of '70," *New York Times Magazine*, March 1, 1970, p. 56.

As they became aware of the threat to their homeland, the Native Alaskans began to form village councils, then regional organizations to protect their interests. By 1966 the Alaska Federation of Natives (AFN) had emerged consisting of 19 regional and village groups determined to exert a unified effort to secure an equitable land settlement.[48]

Shortly after the formation of the AFN, and before control of more than about six million acres had been transferred from Federal Government to the State of Alaska, Secretary of the Interior Stewart Udall ordered a "land freeze" to halt further conveyances of land to the State until the Congress could resolve the Native land claims. In 1968 Secretary Udall changed the "freeze" to a public land order. The State brought a case in the Federal district court to compel the Secretary to grant its request for certain lands. The State won in the local court but later lost in an appeal to the 9th Circuit Court which upheld (December 1969) the Secretary's "freeze" order and affirmed the validity of the Natives' position in regards to aboriginal use and occupancy.[49]

In 1970 the Senate voted their approval for a settlement that would award the Native Alaskans $1 billion over a 12-year period plus 10 million acres of land, but there was no action on the measure in the House. In April 1971 the Senate introduced a bill (S. 1571) sponsored by the Administration that was much closer to the request of the Native Alaskan leaders than that sponsored in 1969.

The 1971 bill called for 40 million acres of land with subsurface mineral rights compared to 15 million acres with no subsurface rights in the original 1969 bill; and up to $1 billion in cash compared to $500 million in the previous version. Other improved features were also included growing out of a candid exchange between representatives of the AFN, the Vice President, Secretary Morton, and other Interior and White House officials. The Native Alaskans presented some requests, of course, that went beyond the items included in the Administration sponsored bill.[50] Final settlement, December 14, 1971, provided Native title to surface lands and sub-surface resources for 40 million acres, plus $462,500,000 from the United States over a period of 11 years, as well as an income of $500,000,000 in mineral revenues.[51] The bill was accepted by the Alaska Federation of Natives, and signed by President Nixon December 18, 1971.

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[47] William L. Hensley, "Arctic Development and the Future of Eskimo Societies," *Indian Truth*, February 1970.

[48] *Ibid.*

[49] Debo, *op. cit.*, pp. 334–5.

At one time the Natives used all of Alaska. In early discussions they asked for about half the State based on their own survey of hunting and fishing grounds still in use around their more than 200 mostly isolated villages. The Administration wanted to settle the land claims before approval was given for the construction of the $1 billion pipeline to carry the oil from Prudhoe Bay and the North Slope area, to Valdez on the Gulf of Alaska. A complicating factor was the pressure exerted against construction of the pipeline by environmentalists. After the Interior Department received final project design specifications from the oil companies, it had to complete the environmental impact statement required by the Environmental Policy Act of 1969.

The Native Alaskans have many serious problems, and they see success in their claims as a partial solution. They are also very much aware of the history of Indian policy in the lower 48 States, and hope it will not be repeated in Alaska. The idea of a managed colonialism, with its accompanying wardship and final period of paternalistic control does not appeal to them.[52]

On March 15, 1972 Secretary Morton reserved 99 million acres from which the Native Alaskans could select the 40 million acres allocated to them by the Settlement Act. After the selection has been made the 59 million remaining acres will continue under Federal management for a period of time before it is opened to possible selection by the State of Alaska or Federal agencies.[53]

On June 2, 1972, the Secretary of the Interior announced approval of articles of incorporation for the first three of an eventual 12

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[50] *NCIO News*, March–April 1971, and Department of the Interior News Release, April 6, 1971.

[51] *Alaska Native Claims Settlement Act* (Washington: 92nd Cong., 1st sess., U. S. House of Representatives, 1971), H.R. 10367.

[52] For general information see series in *The Christian Science Monitor*, April 12–16, 1971; also see Senate Report No. 91–925, Alaska Native Claims Settlement Act of 1970, to accompany S. 1830, 91st Cong., 2d sess., June 11, 1970, 219 pp.

[53] Department of the Interior News Release, March 15, 1972.

Regional Corporations authorized under the Alaska Native Claims Settlement Act of 1971 to assist in the management of Native affairs within the regions.[54] On June 30, 1972, advances totaling $5.8 million were made available to the 12 Regional Corporations, all of which had secured Secretarial approval by June 23, 1972, to provide financial assistance "for organization purposes, to identify land authorized by the Act, and to repay loans and other obligations previously incurred for such purposes." [55]

With the legislation passed, and the corporations established, the Native Alaskans have begun to negotiate with the State and with Federal and private agencies to secure better housing, improved health services, better educational facilities and opportunities, and to consider the many other possibilities that are important to them, and that they are now enabled to plan for through their own leadership, and their own organizational structure.

INDIAN CULTURE AND AMERICAN LIFE

> The Indians improved daily and wonderfully by their intercourse with the whites. They took to drinking rum, and making bargains. They learned to cheat, to lie, to swear, to gamble, to quarrel, to cut each other's throats, in short to excel in all the accomplishments that had originally marked the superiority of their Christian visitors.

Thus Washington Irving characterized an early contact between the White and the Red race. But now the tables are turned and the Euro-Americans are beginning to copy representations of the life, history, and culture of the Indians in a variety of ways, and all to their advantage and cultural enrichment.

For over 35 years the Koshare dancers of LaJunta, Colo., have traveled far and wide to participate in programs where they have donned costumes to give their versions of the dances of various Indian tribes, sometimes without the blessing of particular Indian groups. They have also established a museum at LaJunta where Indian art and artifacts are on display.

Laws have been passed and other efforts have been made by the Federal and State governments to preserve archeological sites, our only claim to any respectable antiquity in the United States. Museums have been founded to preserve relics that have been, with or without permission, removed from these sites.

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[54] Department of the Interior News Release, June 2, 1972.

[55] Department of the Interior News Release, June 30, 1972.

Ancient and early Indian art has been preserved and copied, and more recently a whole school of Indian artists has developed using a variety of techniques and in some cases developing highly personalized styles and their own art forms. For almost 40 years an Indian Arts and Crafts Board has existed in the Department of the Interior charged with the promotion of the artistic and cultural achievements of Indian and Eskimo artists and craftsmen.

The Institute of American Indian Arts at Santa Fe, N. M., exists as a national institution to give training in the arts directed to the special needs of Indians, Eskimos, and Aleuts of the United States.

The Smithsonian Institution through its museums and art galleries has maintained and continues to improve upon its collections that are representative of the history, art, culture and daily life patterns of the Native Americans viewed at different periods in their history.

Using the whole gamut of modern communications media the Indian is portrayed in series that are run in newspapers, in magazine articles, in a great variety of books—fiction and non-fiction, through the drama, in movies, on television, by the use of photographs, paintings, music, and by using Indian motifs in architecture. Some of these are true to Indian life, and some, unfortunately, are not.

The most encouraging aspect of all this is that Native Americans are themselves participating as artists, authors, technicians, and critics in the production and distribution of authetic materials that pertain to their ethnic groups. These native groups are becoming more and more a part of the warp and woof that helps to comprise the rich texture of our society, but as Indians, Aleuts, and Eskimos, and not as bronzed copies of "mainstream" White Americans. As participants instead of observers they are making their influence felt in bringing greater genuineness to the nature and content of these productions, and the public likes the more genuine article.

Under the BIA Office of Education Programs, the Research and Cultural Studies Development Section has been working directly with Tribal leadership to secure documentation for their history and culture. Indian scholars, appointed by tribal councils and working with these collected sources, have written down their traditions, and these have been published in the name of the Tribe for use as part of the curriculum of local school districts in the area where the reservation is located. The income from the sale of the books, published under tribal contracts, belongs to the particular tribe.[56]

The Education Amendments of 1972 included an "Ethnic Heritage Program" which would assist school children and adults in the United States "to learn about the differing and unique contributions to the national heritage made by each ethnic group," and "to learn about the nature of their own cultural heritage." [57] This should result in a better understanding of Indian communities by their surrounding neighbors.

Styles in jewelry, in moccasins, boots; the use of chamois in shirts and boleros; styles in headdresses, shirts, blouses, bodysuits (leotards plus tights); a variety of prints and fabrics for morning, afternoon, and evening wear; all are being influenced by Indian themes. Again, representatives of the Native groups are participating in the styling and in the production of the basic materials from which many of these articles are manufactured as well as the finished product.

From whatever vantage point we view our society, the impact of the Indian will likely be proportionately greater than that of any other element because the Indian is the original and the basic ingredient. It is the energy and imagination of the Indians themselves that will make this prospect possible. We are confident that the cultural enrichment that the Indians add to American life today is a greater advantage than the negative traits Washington Irving credits us with having bequeathed as a gift to the Indians in the past.

Promising prospects of this administration that project the hope for improvement of Indian life are the recognition "That American Society can allow many different cultures to flourish in harmony," that for Indians who make that choice "we must provide an opportunity . . . to lead a useful and prosperous life in an Indian environment," [58] and that as a matter of policy "we must begin to act on the basis of what the Indians themselves have long been telling us. The time has come to break decisively with the past and to create the conditions for a new era in which the Indian future is determined by Indian acts and Indian decisions." [59]

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[56] Examples of these are: *The Zunis*, self portrayals by the Zuni people (Albuquerque: University of New Mexico Press, 1972); *Nu Mee Poom Tit Wah Tit* (Nez Perce Legends) , Nez Perce Tribe of Idaho, 1972; and *The Southern Utes*, A Tribal History (Ignacio, Colo.; Southern Ute Tribe, 1972).

[57] Education Amendments of 1972, cited above.

[58] *Indian Record*, January 1969, pp. 1–2.

Indians are capable of doing what they must do; what only they can do for themselves. Further progress in the achievement of the stated goals of present Indian policy can be better accomplished with the maximum involvement and full commitment of Indians. In the future, as President Nixon has said, Indians will need to become even more involved in the establishment of Indian policy, in making the hard decisions. Government policy in a democracy sees policy goals achieved more fully when citizens, the objects and beneficiaries of the policies, help to fix them, and are therefore supporters of policy purposes.

Much has already been done by the Government and by the people of the United States to "mobilize and direct the vast reservoir of good will toward Indians which is found throughout the country." [60] But much remains to be done by both Indian communities and agencies with the responsibility to assist them before Indian leaders in name have the power to in fact become decisionmakers in all matters that affect the welfare of Indian people.

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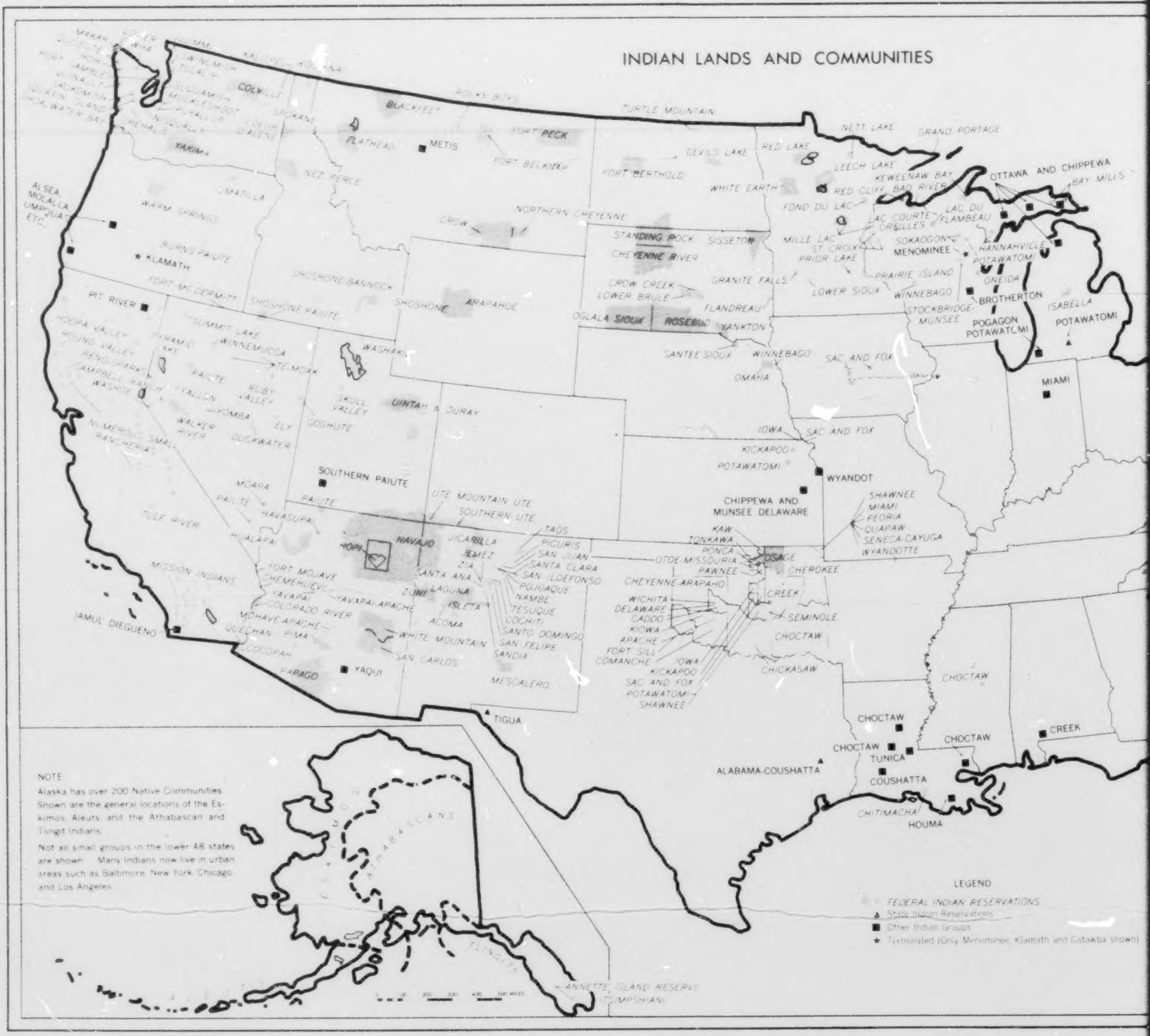
[59] *President's Special Message*, July 8, 1970.

[60] *Task Force Report*, 1961, p. 77.

INDIAN LANDS AND COMMUNITIES


MAKAH
SWINOMISH
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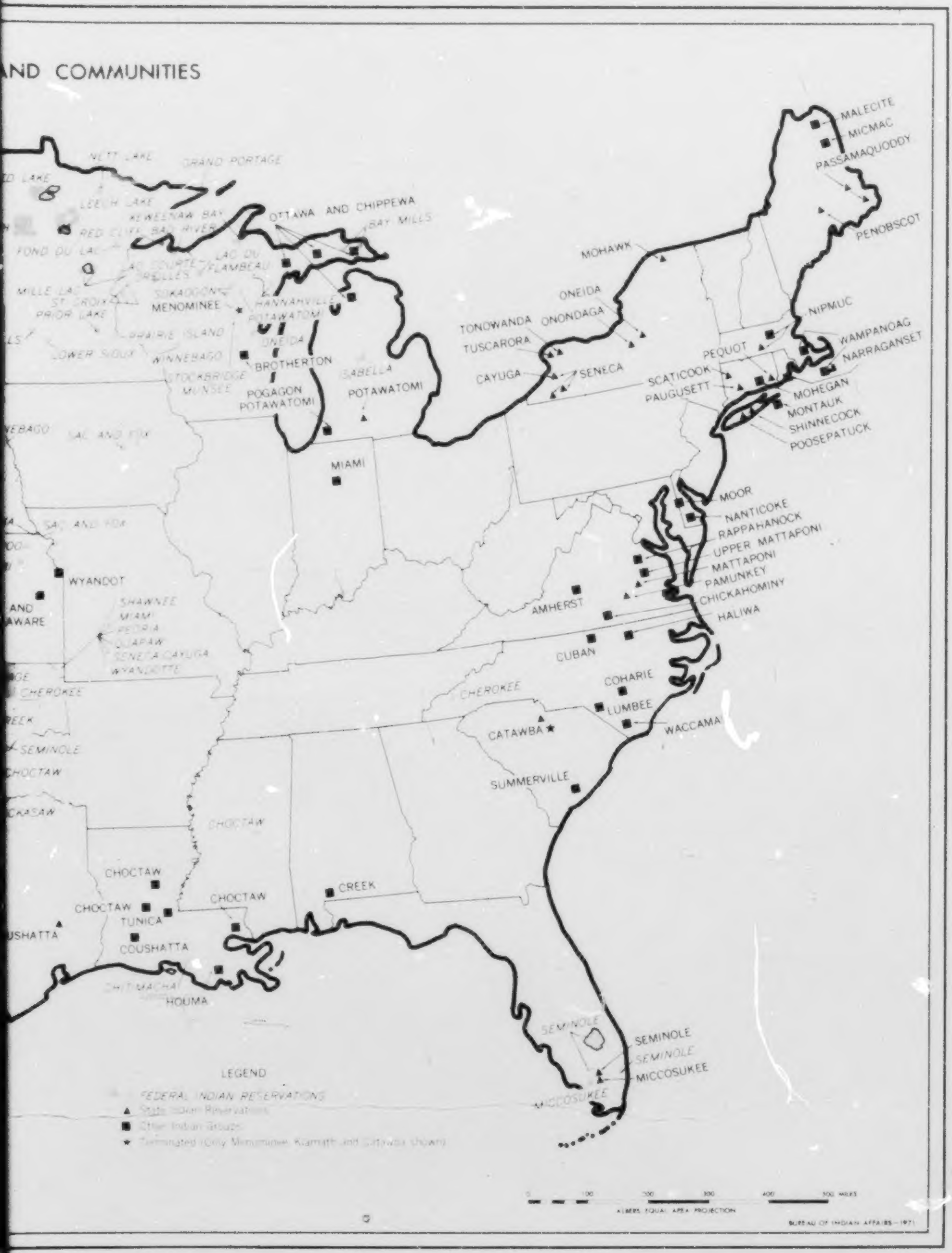
SUQUAMISH
MUCKLESHOOT
PUYALLUP
NISQUALLY
CHEHALIS
COLVILLE
SPOKANE
COEUR D'ALENE
YAKIMA
UMATILLA
WARM SPRINGS
NEZ PERCE
ALSEA, MOLALLA, UMPQUA, ETC.
BURNS PAIUTE
KLAMATH
FORT McDERMITT
SHOSHONE-BANNOCK
SHOSHONE-PAIUTE
PIT RIVER
HOOPA VALLEY
ROUND VALLEY
RENO-SPARKS
CAMPBELL RANCH
WASHOE
PYRAMID LAKE
SUMMIT LAKE
WINNEMUCCA
TE-MOAK
PAIUTE
FALLON
RUBY VALLEY
YOMBA
WALKER RIVER
ELY
DUCKWATER
NUMEROUS SMALL RANCHERIAS
GOSHUTE
SKULL VALLEY
UINTAH & OURAY
WASHAKIE
SOUTHERN PAIUTE
MOAPA
PAIUTE
TULE RIVER
HAVASUPAI
HUALAPAI
MISSION INDIANS
FORT MOJAVE
CHEMEHUEVI
YAVAPAI
COLORADO RIVER
YAVAPAI-APACHE
MOHAVE-APACHE
QUECHAN
PIMA
COCOPAH
JAMUL DIEGUENO
PAPAGO
YAQUI
SAN CARLOS
WHITE MOUNTAIN
HOPI
NAVAJO
ZUNI
UTE MOUNTAIN UTE
SOUTHERN UTE
JICARILLA
JEMEZ
ZIA
SANTA ANA
LAGUNA
ACOMA
ISLETA
TAOS
PICURIS
SAN JUAN
SANTA CLARA
SAN ILDEFONSO
POJOAQUE
NAMBE
TESUQUE
COCHITI
SANTO DOMINGO
SAN FELIPE
SANDIA
MESCALERO
TIGUA
BLACKFEET
FLATHEAD
METIS
ROCKY BOY'S
FORT PECK
FORT BELKNAP
CROW
NORTHERN CHEYENNE
SHOSHONE
ARAPAHOE
TURTLE MOUNTAIN
DEVILS LAKE
FORT BERTHOLD
STANDING ROCK
CHEYENNE RIVER
SISSETON
CROW CREEK
LOWER BRULE
OGLALA SIOUX
ROSEBUD
FLANDREAU
YANKTON
SANTEE SIOUX
WINNEBAGO
OMAHA
RED LAKE
NETT LAKE
GRAND PORTAGE
LEECH LAKE
WHITE EARTH
FOND DU LAC
MILLE LAC
ST. CROIX
PRIOR LAKE
GRANITE FALLS
LOWER SIOUX
PRAIRIE ISLAND
KEWEENAW BAY
RED CLIFF
BAD RIVER
LAC COURTE OREILLES
LAC DU FLAMBEAU
SOKAOGON
MENOMINEE
WINNEBAGO
STOCKBRIDGE-MUNSEE
ONEIDA
BROTHERTON
HANNAHVILLE
POTAWATOMI
OTTAWA AND CHIPPEWA
BAY MILLS
ISABELLA
POGAGON POTAWATOMI
POTAWATOMI
SAC AND FOX
MIAMI
IOWA
SAC AND FOX
KICKAPOO
POTAWATOMI
WYANDOT
CHIPPEWA AND MUNSEE DELAWARE
SHAWNEE
MIAMI
PEORIA
QUAPAW
SENECA-CAYUGA
WYANDOTTE
KAW
TONKAWA
PONCA
OTOE-MISSOURIA
PAWNEE
OSAGE
CHEROKEE
CHEYENNE-ARAPAHO
CREEK
WICHITA
DELAWARE
CADDO
KIOWA
APACHE
FORT SILL
COMANCHE
SEMINOLE
CHOCTAW
IOWA
KICKAPOO
SAC AND FOX
POTAWATOMI
SHAWNEE
CHICKASAW
CHOCTAW
CHOCTAW
CHOCTAW
TUNICA
COUSHATTA
CHOCTAW
CREEK
ALABAMA-COUSHATTA
CHITIMACHA
HOUMA
ESKIMO
ATHABASCANS
ALEUTS
TLINGITS
ANNETTE ISLAND RESERVE (TSIMPSHIAN)
0 100 200 300 400 500 MILES
LEGEND
FEDERAL INDIAN RESERVATIONS
▲ State Indian Reservations
■ Other Indian Groups
★ Terminated (Only Menominee, Klamath and Catawba shown)

NOTE

Alaska has over 200 Native Communities. Shown are the general locations of the Eskimos, Aleuts, and the Athabascan and Tlingit Indians.

Not all small groups in the lower 48 states are shown. Many Indians now live in urban areas such as Baltimore, New York, Chicago, and Los Angeles.

↑ 280



AND COMMUNITIES

NETT LAKE
GRAND PORTAGE
D LAKE
LEECH LAKE
KEWEENAW BAY
RED CLIFF
BAD RIVER
FOND DU LAC
LAC COURTE OREILLES
LAC DU FLAMBEAU
MILLE LAC
ST. CROIX
PRIOR LAKE
SOKAOGON
MENOMINEE
HANNAHVILLE POTAWATOMI
LS
PRAIRIE ISLAND
LOWER SIOUX
WINNEBAGO
ONEIDA
BROTHERTON
STOCKBRIDGE MUNSEE
ISABELLA
POGAGON POTAWATOMI
POTAWATOMI
OTTAWA AND CHIPPEWA
BAY MILLS
EBAGO
SAC AND FOX
MIAMI
SAC AND FOX
WYANDOT
AND
AWARE
SHAWNEE
MIAMI
PEORIA
QUAPAW
SENECA CAYUGA
WYANDOTTE
GE
CHEROKEE
REEK
SEMINOLE
CHOCTAW
CKASAW
CHOCTAW
CHOCTAW
CHOCTAW
TUNICA
CHOCTAW
USHATTA
COUSHATTA
CHITIMACHA
HOUMA
CREEK
MALECITE
MICMAC
PASSAMAQUODDY
PENOBSCOT
MOHAWK
ONEIDA
ONONDAGA
TONOWANDA
TUSCARORA
CAYUGA
SENECA
NIPMUC
WAMPANOAG
NARRAGANSET
PEQUOT
SCATICOOK
PAUGUSETT
MOHEGAN
MONTAUK
SHINNECOCK
POOSEPATUCK
MOOR
NANTICOKE
RAPPAHANOCK
UPPER MATTAPONI
MATTAPONI
PAMUNKEY
CHICKAHOMINY
AMHERST
HALIWA
CUBAN
CHEROKEE
COHARIE
LUMBEE
WACCAMAW
CATAWBA
SUMMERVILLE
SEMINOLE
SEMINOLE
SEMINOLE
MICCOSUKEE
MICCOSUKEE
LEGEND
FEDERAL INDIAN RESERVATIONS
▲ State Indian Reservations
■ Other Indian Groups
★ Terminated (Only Menominee, Klamath and Ottawa Shown)
0
100
200
300
400
500 MILES
ALBERS EQUAL AREA PROJECTION

BUREAU OF INDIAN AFFAIRS—1971

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"Visions" by Charles White, a student at the Institute of American Indian Art of the Bureau of Indian Affairs in Santa Fe, New Mexico. (Copyright).

There is a rich heritage of Indian art, artifacts, and ethnological materials scattered throughout the Americas in museums. Manuscript materials containing ethnohistorical data are spread in like manner in libraries, archives, and private collections in North, Central, and South America.

Even official documents issued by Government emissaries have accumulated in a variety of agencies. In the United States, as in other Nations, efforts are being made to centralize these collections in national archives, national libraries, and record centers. Certain States, however, have been allowed to retain possession of records that relate to Indian tribes. These may have national and sometimes international significance. Sometimes such records were created within the present boundaries of that State while it was part of the territory of another Nation.

More work needs to be done to list and describe the nature of these materials, through the publication of catalogs, guides, handbooks, checklists, and bibliographies. The publication and distribution of pertinent source materials that relate to particular tribes, to culture areas, and to interaction between Indian tribes and the various American nations, would be a great advantage to American Indian scholars who may not now have access to these sources in the original.

With improvement of the knowledge of and access to these sources it becomes apparent that a comprehensive multi-volume work should be undertaken to describe historically, legally, ethically, and in terms of social adaptation what has occurred to the Indians of the Americas from their point of view as a result of their conquest by European nations from the time of first contact to the present.

Various parts of this undertaking have been accomplished in relation to particular periods, to particular nations, or to particular tribes or geographical areas, but much remains to be done to fill gaps in historical periods and to adequately cover a great variety of pertinent topics.

Anthropological data has been compiled for many tribes that lack tribal histories. There is a sparsity of recent historical information for most tribes. There is little information concerning the Indians that have left the reservations and ceased to be identified as Indians during the past hundred years, and inadequate knowledge of the more rapid urban migration that has occurred during and since World War II.

More needs to be learned about the successes and/or failures, and usually there were some of both, that accompanied particular Indian policies of the past as lessons for the future. Until we know enough about the past to recognize our mistakes, we tend to continue to repeat them. Also, we fail to gain the advantage of our successes if we have no historical memory of them. We therefore find ourselves solving the same problems over and over again because we do not remember how we solved them at some prior time.

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A number of Indian tribes and Indian interest groups regularly publish newspapers, newsletters, or periodicals that relate to Indians. Some examples of these are listed below in alphabetical order.

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APPENDICES

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"Night Dancers", by Gabe Peynetsa, a student at the Institute of American Indian Art of the Bureau of Indian Affairs in Santa Fe, New Mexico. (Copyright).

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DATES SIGNIFICANT IN THE DEVELOPMENT OF INDIAN POLICY

1000	to 1006 Contacts between Native Americans and the Vikings.
1492	Contact between Native Americans and the Spanish resulting in first permanent settlement by Europeans
1497	to 1606 Contacts between Native Americans and the English.
1524	to 1607 Contacts between Native Americans and the French.
1537	Pope Paul III by the Bull Sublimis Deus supports the doctrine promoted by Bartolome de las Casas and Francisco de Vitoria that Indians are "truly men" with the right to enjoy liberty and possess property.
1598	Establishment of Spanish settlement in New Mexico.
1602	to 1612 Contacts between Native Americans and the Dutch.
1607	First permanent English colony established at Jamestown.
1608	First permanent French colony established at Quebec.
1626	Dutch purchase Manhattan Island from the Indians and found New Amsterdam.
1633	Land allotted to Indians by General Court of Massachusetts Colony (establishes precedent that Colonial or Central rather than Local Government is to deal with Indians).
1643	to 1684 New England Confederation attempts to provide mutual defense against Indians, Dutch, French, etc.
1664	The English inherit the Dutch holdings and their trade with the Indians.
1675	to 1676 King Philip's War results in an end of organized resistance to the colonies by tribes of southern New England.
1680	In a revolt led by the Pueblo Indians the Spanish were driven from New Mexico until the reconquest began in 1692.
1680's	In precedents set by men such as William Penn the idea is presented that Indian land should be acquired by purchase.
1680's	The French under LaSalle open the Mississippi region, expand their trade with Indians, and gradually settle this heartland of America.
1689	to 1763 In a series of wars stemming from English, French, and Spanish rivalry in both Europe and America, Indian tribes are allied with each of the three powers and against one another in the American theater.
1750's	French establish a string of forts in the Ohio country to consolidate their holdings and strengthen their ties with Indian allies. The English retaliate by establishing their own forts and improving relations with Indian friends.
1754	At the Albany Congress the English discuss ways of pacifying Indian leaders, and of achieving a unified Indian policy.
1755	to 1756 British Government appoints superintendents of Indian Affairs for the northern and southern departments to centralize control of relations with Indians in the hands of representatives of the Crown.
1763	The English inherit French territory in Canada and East of the Mississippi River, as well as their contacts with Indian tribes in that area.
1763	Pontiac's Rebellion—an attempt by former Indian allies of the French to reclaim frontier posts held by the English.
1763	Proclamation of King George III attempting to keep settlers east of the Appalachian Divide, and establishing an "Indian country" or "reserved lands" not available for purchase from the Indians.
1764	Plan of the British Government, although not adopted, further centralizes control of Indian affairs in actual practice to superintendents appointed by the Crown and not responsible to the Colonial Governments.

1775 Continental Congress assumes control of Indian Affairs and names commissioners for the northern, middle, and southern departments.

1775 Negotiations between Indian commissioners and Six Nations.

1775 to 1783 Revolutionary Government guides Indian policy and seeks continued support of Indian allies.

1778 New Government signs a treaty with the Delaware Indians.

1781 to 1789 Under the Articles of Confederation it was accepted in principle that the central government should regulate Indian affairs and manage Indian trade.

1783 Settlement on and attempts to secure title to Indian lands forbidden except under the direction and with the authority of the Congress.

1786 Secretary of War made responsible for Indian Affairs by an Ordinance of August 7th.

1786 to 1789 A series of treaties establishes a policy of acquiring Indian lands by purchase rather than by right of conquest.

1787 Northwest Ordinance of July 13, 1787: "The utmost good faith shall always be observed towards the Indians, . . ." etc.

1789 Under the new Constitution, Article I, section 8, clause 3, the Congress was given the specific authority "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

1789 Under the Constitution the Congress continues the use of the Secretary of War to manage Indian affairs.

1789 In four statutes the Congress established Federal authority to make war (or presumably peace), to govern territories, to make treaties, and to spend money in dealing with Indians.

1789 Treaty refers to education for Oneida, Tuscarora, and Stockbridge Indians.

1796 to 1822 Indian trading houses established, operated, and maintained by the Government under the factory system.

1803 As a result of the Louisiana Purchase from France a vast new territory with a large Indian population is added to the United States, and Thomas Jefferson proposes the removal of eastern Indians to the area west of the Mississippi.

1803 to 1806 The Lewis and Clark Expendition contacts many new Indian tribes as it explores the region from the Mississippi River to the Pacific Ocean for the United States.

1806 Office of Superintendent of Indian Trade created in the War Department to administer Federal Indian trading houses.

1812 to 1819 West Florida, then East Florida acquired from Spain, and the United States is involved in the Seminole War.

1819 Fund created by the Congress for the "civilization of the Indians."

1822 Indian trading houses and Office of Indian Trade abolished by Congressional action.

1824 The Secretary of War creates a Bureau of Indian Affairs within the War Department.

1830 Indian Removal Act passed by the Congress.

1831 Landmark decision by the Supreme Court in Cherokee Nation vs. Georgia.

1832 The Supreme Court hands down another landmark decision in Worcester vs. Georgia.

1832 to 1842 Federal Government removes portions of "Five Civilized Tribes" from southeastern states to Indian Territory.

1832 Office of Commissioner of Indian Affairs created within the War Department.

1834	Indian Trade and Intercourse Act redefines Indian country and introduces significant changes through reorganization of the Indian Service.
1845	to 1846 Republic of Texas enters Union and Texas Indian tribes are brought under Federal control.
1846	The Oregon Country with its Indian tribes becomes part of the United States as a result of a settlement with England.
1848	The Treaty of Guadalupe Hidalgo ends the war with Mexico and the "Spanish Southwest" with its Indian tribes becomes part of the United States.
1849	By Congressional action the Bureau of Indian Affairs is transferred from the War Department to the new Department of the Interior.
1850's	With the opening of Indian Territory west of the Mississippi to settlement it became Government policy to set aside reservations for Indian tribes.
1853	By the Gadsden Purchase the United States acquires additional territory and Indian lands from Mexico.
1866	As punishment for their support of the Confederacy, the Five Civilized Tribes were compelled to accept new treaties by which they relinquished the western half of Indian Territory where some 20 tribes from Kansas and Nebraska were settled in 13 new reservations.
1867	to 1868 Indian Peace Commission negotiates final treaties with Indians (last of 370 with the Nez Perce on August 13, 1868).
1869	President Grant's so-called "Peace" policy inaugurated.
1869	Act creating Board of Indian Commissioners (continued until eliminated by Executive Order in 1933).
1869	The completion of the Transcontinental railroad and the beginning of the end of the buffalo herds bring great change in the lives of the Plains Indians.
1870	to 1876 Following Federal Indian policy the remaining tribes were placed on reservations, with the help of the military when necessary. Rations of food and clothing were made available in lieu of the privilege of hunting in "customary places."
1870's	Beginnings of a Federal program to provide schools for the education of Indians.
1871	The negotiation of treaties between the United States and Indian tribes is ended by Congressional action.
1878	Congress authorized the establishment of a United States Indian Police.
1883	Courts of Indian Offenses were authorized to allow tribal units to administer justice in all but the major crimes.
1885	United States courts were given jurisdiction over Indian cases involving major crimes (murder, manslaughter, rape, assault with intent to kill, arson, burglary, and larceny).
1887	The General Allotment or Dawes Severalty Act makes the allotment of land to individual Indians and the breaking up of tribal landholdings the official policy of the United States.
1889	Two million acres of Oklahoma Territory was bought from the Indians and thrown open for settlement.
1891	Provision is made for the leasing of alloted Indian lands.
1898	The Curtis Act extends the effect of the Allotment Policy to the Five Civilized Tribes in Indian Territory.
1901	The Congress conferred citizenship on all Indians in the Indian Territory.
1902	The Secretary of the Interior made the first oil and gas leases on Indian lands within present boundaries of Oklahoma.

1902 to 1910 Beginnings of Federal Indian reclamation, forestry, and conservation programs.

1906 The Burke Act amends certain features of the Dawes Act on allotment, and defines Indian "competency."

1907 The Supreme Court defines the right of the United States to reserve waters for the use of Indian tribes in Winters vs. United States (so-called "Winters Doctrine").

1907 Oklahoma, including Indian Territory, is admitted as a State of the Union, and citizens begin agitation to have Indian land made available on the market and to increase the State's taxpaying lands.

1909 to 1912 Beginnings of a formal Indian health program with a Special Message from President Taft to the Congress on that subject August 10, 1912.

1917 As a result of the "new declaration of policy," liberalizing the granting of titles to Indians for land, 10,956 patents were issued from 1917 to 1920 compared with 9,894 from 1906 to 1916.

1922 All-Pueblo council gathered at Santo Domingo to raise a united voice in protest against the Bursum Bill: "An act to quiet the title to lands within Pueblo Indian land grants . . ." With strong national support the bill was defeated.

1923 The Committee of One Hundred surveys and presents a report on "The Indian Problem" in the United States.

1924 The Pueblo Lands Board Act establishes an impartial body to investigate non-Indian land claims within the boundaries of the Pueblos.

1924 The Congress grants citizenship to all Indians. A majority were already citizens as a result of treaties or earlier blanket grants to particular groups. (Indians did not gain the right to vote in all States, however, until 1948.)

1924 A Division of Indian Health is established within the Bureau of Indian Affairs.

1928 The Meriam Report on the *Problem of Indian Administration* is published, after a two year study, recommending various reforms and changes of policy in Indian affairs.

1928 to 1943 The Senate Committee on Indian Affairs conducts a survey of Indian programs and policies that has far reaching repercussions.

1931 $50,000 was appropriated to secure remunerative employment through the Bureau of Indian Affairs's new Guidance and Placement Division.

1931 A new Division of Agricultural Extension and Industries is established with the Bureau of Indian Affairs.

1932 The Leavitt Act frees the Indians of liens on allotted lands totaling millions of dollars. The *Preston-Engle Report* had recommended such action along with a complete reorganization of Indian irrigation services and the abandonment of useless projects.

1933 Steps are taken to emphasize the right of Indians to practice their own customs and religion and to stress the fact that interference with such practices would no longer be tolerated.

1934 New Indian legislation such as the Wheeler-Howard or Indian Reorganization Act officially reverses the trend to break up tribal governments and landholdings typical of the allotment period (1887 to 1933), provides for tribal self-government, and launches an Indian credit program; and the John O'Malley Act allows the Secretary of the Interior to contract with States, territories, and other agencies to provide services to Indians.

1935 An Act to establish an Indian Arts and Crafts Board (accomplished in 1936).

1936 Alaska and Oklahoma supplements provided to the Indian Reorganization Act of 1934.

1937 The Bureau of Indian Affairs reports that total Indian landholdings have increased 2,100,000 acres since 1935.

1943 to 1944 The "Partial Report" and "Supplemental Report" of the Senate Indian Affairs Committee calls for changes in Indian policy and the "Liquidation of the Indian Bureau."

1943 to 1944 The Bureau of Indian Affairs calls for the preparation of basic development programs by each tribe, band or group to "facilitate the Federal Government in dispatching its obligations to the Indian . . ."

1944 The National Congress of American Indians is organized at Denver, Colorado.

1944 to 1947 The House Indian Affairs Committee conducts its own investigations of Government Indian policies.

1945 By the close of World War II it is apparent that experience gained by thousands of Indians on the work relief programs of the 1930's, and by some 65,000 who left reservations to join the armed services or for war work in cities, has wrought considerable change that will strongly affect future Indian actions throughout the United States.

1946 Act to create an Indian Claims Commission to hear claims of Indian tribes against the United States.

1947 The Senate Committee on the Post Office and Civil Service calls for testimony from the Bureau of Indian Affairs on the readiness of particular tribes to have the services of the Indian Bureau withdrawn.

1948 The Hoover Commission recommends the transfer of the Bureau of Indian Affairs to the Federal Security Agency and states that "assimilation must be the dominant goal of public policy" for Indians.

1948 to 1953 The Bureau of Indian Affairs job placement program evolves into the "Relocation" program for Indians.

1948 to 1959 By legislation and administrative action policy on sale and leasing of individually held Indian land, and of using such land as security for loans is liberalized from the 1933 to 1945 position.

1949 Representatives of the Bureau of Indian Affairs ask Indian tribes to assist with the development of programs that will help the Indian Bureau "to work itself out of a job."

1949 to 1964 Rehabilitation payments of over $60 million made to seven tribes displaced in various ways by Federal irrigation projects constructed on Indian reservations that were largely beneficial to non-Indians.

1950 The Navajo-Hopi Rehabilitation Act, which eventually called for appropriations of over $108 million to benefit these two tribes. Similar legislation was prepared for the Papago Reservation but failed enactment.

1951 The Bureau of Indian Affairs states as program objectives "a standard of living for Indians comparable with that enjoyed by other elements of our society," and the "step-by-step transfer of Bureau functions to the Indians themselves or to appropriate agencies of local, State or Federal Government."

1952 A Division of Program is established by the Bureau of Indian Affairs to work with individual tribes to achieve the goals stated in 1951 (above).

1953 Congressional action changes discriminatory liquor laws as they pertain to Indians.

1953 Act to allow extension of State legal jurisdiction over Indian reservations in certain specified states includes a controversial clause allowing other states to take similar action without Indian consent.

1953 House Concurrent Resolution 108 calls for termination of special services of the Bureau of Indian Affairs to specified tribes and in particular States "at the earliest possible time."

1953 to 1964 The Navajo emergency education program more than doubled Navajo school enrollment.

1954 Congressional legislation to carry out the policy expressed in HCR 108, 1953.

1954 Act to transfer the Division of Indian Health from the Bureau of Indian Affairs to the U.S. Public Health Service (PHS) (accomplished in 1955). Appropriations for Indian Health rose from over $12 million in 1950 to over $61 million in 1965.

1954 Legislation to secure transfer of Bureau of Indian Affairs agricultural extension to the Department of Agriculture failed enactment, but was later accomplished by administrative action.

1956 The Bureau of Indian Affairs initiated a program to provide basic education to adult Indians; the Congress enacted a vocational training program for Indians from 18 to 35; and the Bureau of Indian Affairs commenced an industrial development program to encourage industry to locate on or near Indian reservations and to employ Indian labor.

1957 Legislation authorized PHS to assist communities with the construction of health facilities that would benefit both Indians and non-Indians.

1958 Legislation allowed Indian tribes to benefit from federally impacted area bills (PL 81–815 and PL 81–874) by securing financial assistance for the construction and operation of schools that would benefit Indians.

1958 A Statement of Secretary of the Interior modified the position of the Department on termination.

1959 Legislation authorized PHS to construct sanitary facilities for Indians.

1961 Interior Department and Bureau of Indian Affairs changed their land sales policy to allow Indian tribes or other Indians the first opportunity to acquire individually owned lands offered for sale by Indians—this was a great assistance in tribal land consolidation programs.

1961 Authorizations for Indian revolving loan fund increased from $10 million to $20 million; and benefits from the Area Redevelopment Act and Housing Act are extended to Indian reservations.

1961 Interior Secretary names a Task Force to study Indian Affairs and make long-range recommendations; the Commission on the Rights, Liberties, and Responsibilities of the American Indian publish their *Program for Indian Citizens;* and Indians gather at Chicago to make their *Declaration of Indian Purpose*.

1962 Benefits of Manpower Development and Training Act made available to Indians; and the Congress authorized nearly $135 million for the Navajo Irrigation Project.

1962 Interior Secretary names a Task Force to study and make recommendations concerning Alaskan Native Affairs; and Bureau of Indian Affairs Relocation Services becomes Employment Assistance.

1964 The Economic Opportunity Act through the Office of Economic Opportunity (OEO) Indian Desk extends its benefits to Indian reservations.

1965 Birth control advice and services are offered to Native Americans and natives of the Pacific Trust Territories through the Interior Department.

1966 The appointment of a new Commissioner brings a flurry of Congressional interest in termination that eventually results in further stress on Indian economic development.

1966 Special programs for Indian children are provided under the Elementary and Secondary Education Act.

1968 Civil Rights Act extends the guarantee of certain constitutional rights to Indians under tribal governments. Repeals 1953 action allowing States to extend legal jurisdiction over Indian reservations without tribal consent.

1968 Special Message to the Congress on "The Forgotten American" March 6, 1968, by President Lyndon B. Johnson, in which he calls for the establishment of a National Council on Indian Opportunity to be chaired by the Vice President and to include "a cross section of Indian leaders" and the Secretaries or Directors of those departments or agencies that are significantly involved with Indian programs (NCIO is to encourage all Government agencies to make their services available to Indians, and is to coordinate their efforts to achieve particular purposes). President Johnson also suggests that the idea of "termination" should be replaced by Indian "self-determination."

1968 As a Presidential candidate Richard M. Nixon also speaks out against the termination philosophy and suggests that "American society can allow many different cultures to flourish in harmony."

1969 Ninth Circuit Court upholds land "freeze" order of the Interior Secretary on behalf of Native Alaskans and affirms the validity of the Native's position in regard to aboriginal use and occupancy.

1969 Environmental Policy Act protects resources of Native Americans and other citizens.

1969 Publication of report of Senate Committee on Labor and Public Welfare, *Indian Education: A National Tragedy—A National Challenge*, with recommendations.

1969 to 1970 Studies of and hearings on urban Indian programs tends to liberalize Government services to this group.

1969 to 1970 It has become Bureau of Indian Affairs policy to encourage the formation of Indian school boards and to invite Indian leaders to take over the management of their own schools and other programs formerly administered by Bureau of Indian Affairs employees.

1970 New census records approximately a 50% increase in the population of Native Americans from 1960 to 1970 (1960 count 551,669, compared to a 1970 count of 827,091).

1970 In a Special Message to Congress on Indian Affairs July 8, 1970, President Nixon stated: "The time has come to break decisively with the past and to create conditions for a new era in which the Indian future is determined by Indian acts and Indian decisions." The President also asked for a new Concurrent Resolution that would "renounce, repudiate, and repeal" the termination policy outlined in HCR 108 of the 83rd Congress.

1970 The President's request for the return of the Blue Lake area to the Indians of Taos Pueblo was enacted by the Congress and signed by the President December 15, 1970.

1970 to 1971 There is a considerable increase in the number of Indians in leadership positions in Federal Indian programs.

1970 to 1971 Zuni Pueblo Indians of New Mexico began their "home rule" experiment in 1970, and the Miccosukee Indians of Florida assumed control over their own affairs in 1971.

ADMINISTRATORS OF U.S. INDIAN POLICY—1789 TO THE PRESENT

Secretaries of War (1789 to 1832)	*Year of Appointment*	*President*
Henry Knox[1]	1789	George Washington
Thomas Pickering	1795	George Washington
James McHenry	1796	George Washington and John Adams
Samuel Dexter	1800	John Adams
Henry Dearborn	1801	Thomas Jefferson
William Bustis	1809	James Madison
John Armstrong	1813	James Madison
James Monroe	1814	James Madison
William H. Crawford	1815	James Madison and James Monroe
John C. Calhoun[2]	1817	James Monroe
James Barbour[2]	1825	John Quincy Adams
Peter B. Porter[2]	1828	John Quincy Adams
John H. Eaton[2]	1829	Andrew Jackson
Lewis Cass[2]	1831	Andrew Jackson

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[1] Knox had served as "Secretary in the War Office" since 1784. Prior to that, from 1775 on, Indian affairs had been carried on by Indian Commissioners from three departments, responsible to the Continental Congress.

[2] On March 11, 1824, Calhoun named Thomas L. McKenney, who had served from 1816–22 as Superintendent of Indian Trade under the War Department, to be the "head" of the Bureau of Indian Affairs within the War Department. McKenney served in this capacity under Secretaries Calhoun, Barbour, Porter, and Eaton, until replaced by Samuel S. Hamilton on September 30, 1830. Hamilton, in turn, was succeeded by Elbert Herring in 1831, who a year later became the first Commissioner of Indian Affairs by an act of Congress.

Commissioners of Indian Affairs (1832 to Present)	*Year of Appointment*	*President*
Elbert Herring	1832	Andrew Jackson
Carey A. Harris	1836	Andrew Jackson and Martin Van Buren
T. Hartley Crawford	1838	Martin Van Buren William H. Harrison John Tyler
William Medill	1845	James K. Polk and Zachary Taylor
Orlando Brown	1849	Zachary Taylor and Millard Fillmore
Luke Lea	1850	Millard Fillmore
George Manypenny	1853	Franklin Pierce
James W. Denver	1857	James Buchanan
Charles E. Mix	1858	James Buchanan
James W. Denver	1858	James Buchanan
Alfred B. Greenwood	1859	James Buchanan

Commissioners of Indian Affairs (1832 to Present)	*Year of Appointment*	*President*
William P. Dole	1861	Abraham Lincoln and Andrew Johnson
Dennis Cooley	1865	Andrew Johnson
Lewis V. Bogy	1866	Andrew Johnson
Nathaniel G. Taylor	1867	Andrew Johnson
Eli S. Parker	1869	Ulysses S. Grant
Francis A. Walker	1871	Ulysses S. Grant
Edward P. Smith	1873	Ulysses S. Grant
John O. Smith	1875	Ulysses S. Grant and R. B. Hayes
Ezra A. Hayt	1877	Rutherford B. Hayes
R. E. Trowbridge	1880	Rutherford B. Hayes
Hiram Price	1881	James Garfield and Chester A. Arthur
John D. C. Atkins	1885	Grover Cleveland
John H. Oberly	1888	Grover Cleveland
Thomas J. Morgan	1889	Benjamin Harrison
Daniel M. Browning	1893	Grover Cleveland
William A. Jones	1897	William McKinley and Theodore Roosevelt
Francis E. Leupp	1904	Theodore Roosevelt
Robert G. Valentine	1909	William Howard Taft
Cato Sells	1913	Woodrow Wilson
Charles H. Burke	1921	Warren G. Harding and Calvin Coolidge
Charles J. Rhoads	1929	Herbert Hoover
John Collier	1933	Franklin D. Roosevelt
William A. Brophy	1945	Franklin D. Roosevelt Harry S. Truman
John R. Nichols	1949	Harry S. Truman
Dillon S. Myer	1950	Harry S. Truman
Glenn L. Emmons	1953	Dwight D. Eisenhower
Philleo Nash	1961	John F. Kennedy and Lyndon B. Johnson
Robert L. Bennett	1966	Lyndon B. Johnson
Louis R. Bruce	1969	Richard M. Nixon

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